

January, 2014

> LIST OF WATER USE RIGHTS SUBJECT TO A FINE FOR LACK OF USE

On January 15th, Resolution DGA N° 3.600 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 2014. 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 outlines the fine which must be paid by the owner of the water right that is not being effectively or partially used. The Water Bureau (DGA) publishes every January 15th a resolution that contains the list of every water right that is subject to the respective fine, establishing the amount that must be paid.

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

- a) Geographical location;
- b) Flow;
- c) Whether it is consumptive or not consumptive;
- d) Whether it is permanently or eventually exercisable;
- e) Height (if it is not consumptive water rights)
- f) Number of years 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 made 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 on the indicated term, a judicial procedure will begin to enforce its payment. This procedure could end with the auction of the water rights.

It is advisable to make an exhaustive review of the list, since it is very common that water rights that are effectively being used are included in the list, or the information contained is incorrect or not updated.

Given this situation, the law allows every owner of a water right to file a request for reconsideration before the DGA in a term of 30 days and also a claim before the respective Court of Appeals.



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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