CENTRAL DELTA WATER AGENCY
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November 18, 2011

Via email rsatowski@waterboards.ca.gov
and via facsimile (916) 341-5400

State Water Resources Control Board
Division of Water Rights
P. O. Box 2000
Sacramento, CA 95812

STATE WATER RESOURCES CONTROL BOARD
2011 NOV 21 AM 12: 11
DIV OF WATER RIGHTS SACRAMENTO

Attention: Richard Satkowski

Re: Guidance for Complying With Water Diversion Measurement Requirements for Statement Holders

Dear Ladies and Gentlemen:

Thank you for considering our previously expressed concerns regarding the lack of cost effectiveness of using physical measuring devices to determine water use and to quantify the diversions. The Delta is influenced by ocean tides and is comprised of lands below sea level and near sea level. In general, drainage pumps controlled by floats or probes are required to provide continuous control of the water levels. The contribution of water through seepage and artesian flow is impossible to measure. The best technology available to determine water diversion and use in the Delta is to estimate consumptive use and related water diversions such as is being done by the Department of Water Resources and United States Bureau of Reclamation as a part of their compliance with the SWRCB permit conditions relating to Delta outflow. The comprehensive modeling, testing and analysis by DWR and the USBR was the basis for previous exemptions applicable to diversions in the Delta. We have not yet determined the availability of the specific data from such modeling for the purpose of the required monthly reporting and will pursue the same. Our recommendation is to use representative consumptive use data for specific crops and estimate the percentage to be added or deducted to account for seepage and artesian flow. The proposed form Section 3 e. provides for a box "Other". This would be the box checked with an explanation of the method used to estimate the amounts reported. Although this will involve significant costs, the cost is much less than trying to use physical measurements to support the amounts reported.

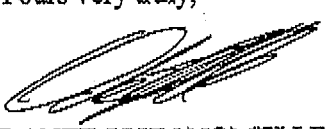
We have concluded that installation of physical measuring devices is not locally cost effective. To be locally cost effective, we believe that the cost must be funded by others or there

must be an identified savings in cost to the diverter which would offset the cost of measurement. Because of the contribution from seeping and artesian flow, the data from physical measurement is of no real value to the diverter and probably of no significant value to anyone. The cost of installation of measuring devices is estimated to be in the neighborhood of $4,000.00 to $6,000.00 per diversion siphon or pump or floodgate. Assuming the number is 1600, the installation cost alone would be 6 to 10 million dollars. Maintenance, monitoring and especially dealing with vandalism and theft along the navigable waterways will involve additional costs which will easily involve hundreds of thousands of dollars per year. The box on the form which provides "Cost of device is high in relation to the economic value of diversion" is inappropriate and should be deleted. Without the diversion of water, the land would have very little value. The right to divert is part and parcel of the land. Implicit in the statement is the assumption that without the measuring device the diversion would not be allowed. It should be recognized that imposition of regulatory constraints could constitute an unconstitutional take of private property.

We strongly oppose imposition of a fee on diverters particularly in the Delta to implement a program to provide data of no particular beneficial use. Although we are aware of the efforts of those south of the Delta who export water from the Delta to extinguish Delta diversions, such efforts will not save water and are not a proper basis for regulation of Delta diversions.

We would like to work with the SWRCB to provide needed information in a cost effective manner and support the idea of trying to implement regional reporting to avoid the burden and cost of individual diverter reporting.

Yours very truly,



DANTE JOHN NOMELLINI, SR.
Manager and Co-Counsel

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