

November 18, 2011

Ms. Barbara Evoy, Deputy Director
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento CA 95812

Subject: Comment Letter – Water Measurement

Dear Ms. Evoy:

This letter is in response to the State Water Resources Control Board's (SWRCB) Notice of Opportunity to Comment on the Guidance for Complying with Water Diversion Measurement Requirements for Statement Holders (Guidance) and the proposed revisions to the Supplemental Statement of Water Diversion and Use reporting form for 2012 (Statement Form). MBK Engineers represents numerous water rights holders throughout the State and has done so for over 50 years. Our clients include many who hold riparian and pre-1914 appropriative rights subject to the measurement and reporting requirements contained in recently amended section 5103 (e)(1) of the California Water Code.

We have reviewed the Guidance, the material referenced in the Guidance, and the proposed revised Statement Form. Based on this review and our experience in water rights and water measurement, the following general comments are provided for consideration:

- Both the Examples of Water Measurement Devices referred to in the Guidance and identified on the Statement Form in Section 1a and/or 2a incorrectly refer to Flow Totalizers as measuring devices. Flow Totalizers simply keep track of the total flow that is measured by a device such as propeller or acoustic meters.
- Section 1b and/or 2b of the Statement Form requests information regarding who installed the measuring device. We are uncertain why this question is asked and why it is important. What is actually important is that the device is installed in accordance with the appropriate specifications.
- Section 1c and/or 2c asks for the make, model, and serial number of the measuring device. While make and model may make some sense, we question the importance of the serial number.

- Section 3f and/or 4f asks for the water user to “[i]ndicate the alternative measuring method” and provides a list. The methods listed are not measurement methods, but rather ways in which to estimate, or in some instances, to calculate quantities diverted. We suggest this section ask for the user to user to “indicate method used as an alternative to measurement.”

In addition, the Guidance refers to the Statements of Water Diversion & Use: Providing a Better Picture of Water Use in the Delta (Report), released in October 2011, by the Delta Watermaster. Because of this reference, and because the Report discusses how data contained in Statements of Diversion and Use may be used, we are providing the following comments.

The main issues identified in the Report are derived from the legislation creating the requirement for measuring and reporting diversions under Statements without a clear purpose for measurement. Since the purpose of measurement is not defined, the Delta Watermaster has concluded that information contained in Statements and Supplemental Statements, including the reporting of measured diversions, will provide a greater understanding of water use and “will support better decisions related to water planning, water allocation, water transfers, and water use efficiency.”

While we disagree with several statements contained in the Report, our comments to the Report are focused on the conclusions which SWRCB staff has recommended be considered. We support the Delta Watermaster’s conclusion that “the new requirements regarding water diversion measurement must be implemented carefully to deal with the practical problems facing many diverters.” We believe there are numerous factors that complicate or impede the implementation of measurement practices. Therefore, we believe a careful approach by the SWRCB providing water users with flexibility is necessary.

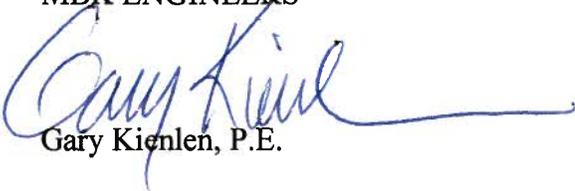
The following comments relate specifically to the Delta and are provided to inform the SWRCB regarding the usefulness of the information contained in Statements and Supplemental Statements, particularly that measured diversion data will support better decisions for the purposes of water planning, water allocation, water transfers, and water use efficiency.

- 1) Water planning – Measuring and quantifying diversions in the Delta will not provide useful information for water planning purposes. Most of the water diverted to Delta islands is through siphons. At the same time, due to the nature of the islands, significant quantities of water enter the Delta islands by seepage. Some of this seepage meets the consumptive use requirement of the crops being grown upon the Delta islands. However, in many cases, the seepage water must be removed from the islands to keep the water table below the root zone of the crops. It is, at least in part, for these reasons that consumptive use models were developed for the Delta; and it is why these models are currently used for statewide water planning purposes.
- 2) Water allocation –The State’s existing water right priority system minimizes the probability in reduction or curtailment of the Delta’s senior riparian and pre-1914 claims.

- 3) Water transfers – Quantities of water available for transfer have historically been determined based on the change in consumptive use, not a change in diversions. This is done in part to eliminate potential third party impacts. Therefore, diversion measurements are not needed for calculating water transfer quantities. In addition, water transfers from Delta water users have not been facilitated by State and Federal policies in recent years for numerous reasons.
- 4) Water use efficiency – Due to the nature of water use on Delta islands, we see little or no benefit or utility in determining the associated water use efficiency. As identified above, all of the water entering Delta islands, either through surface water diversions or through seepage that is in excess of the consumptive use needs, must be pumped off of the islands to provide for productive agriculture. This excess water is returned almost continuously to the Delta channels surrounding the islands.

The Report does not provide reasons or support as to why better decisions regarding water planning, water allocation, water transfers, and water use efficiency will result from the Statement Program. To accomplish the statewide planning goals identified by the Delta Watermaster, consumptive use within the Delta, not diversions, has been and should continue to be used.

Sincerely,
MBK ENGINEERS



Gary Kienlen, P.E.

BB/GK
4877.1/BARBARA EVOY 2011-11-18.DOCX

cc: Mr. Charles Hoppin
Mr. Richard Satkowski