

SENATE BILL 88 AND DRAFT EMERGENCY REGULATION FOR MEASURING/REPORTING**Written Comments Filed Prior to December 7, 2015.**

Author	Organization	Date
Ron Bingaman	Sierra Green Energy, LLC	October 29, 2015
Felice Pace		October 30, 2015
Kathleen Spencer	Peterson Land & Cattle Co.	October 30, 2015
Andrew Stevenson	Hydro Sierra Energy LLC	November 2, 2015
Ben Singer	Hydrodynamics	November 2, 2015
Robert J. Matteoli, PE		November 5, 2015
Bob Pincus	WQ consultants	November 5, 2015
Becky (no last name on email)		November 12, 2015
Bill Ferguson	City of Santa Barbara	November 9, 2015
Jason Carkeet	Turlock Irrigation District	November 9, 2015
Jason Carkeet	Turlock Irrigation District	November 9, 2015
Jason Carkeet	Turlock Irrigation District	November 9, 2015
Ivory Reyburn	Coachella Water District	November 9, 2015
John Clements, PE	GEI Consultants	November 9, 2015
Ryan Hilburn	W.M. Beaty & Associates, Inc.	November 9, 2015
Jeffrey A. Volberg	California Waterfowl	November 10, 2015
Mike Bonnheim		November 11, 2015
Steven Chappell	Suisun Resource Conservation District	November 12, 2015
Bob Pincus	WQ consultants	November 12, 2015
Linda D. Boudier		November 13, 2015
Bill Ferguson	City of Santa Barbara	November 16, 2015
Henry and Pam Giacomini		November 17, 2015
Leonard Moty	Shasta County Board of Supervisors	November 17, 2015
Frost Pauli	Mendocino County Farm Bureau	November 18, 2015
Rich Fischer	Shasta County Cattlemen's Association	November 18, 2015
Suzanne Womack		November 22, 2015
Emmy Cattani		November 23, 2015
George Barber	Paradise Irrigation District	November 23, 2015
Louis "Weegee" DeBernardi		November 24, 2015
Ted deBraga	North Eastern California Water Association	November 24, 2015
William A. Spence		November 24, 2015
Mark Lathrop	Shasta County Farm Bureau	November 25, 2015
Curt Aikens	Yuba County Water Agency	November 25, 2015
Rex Cozzalio	Siskiyou County Water User's Association	November 29, 2015
Susan F. Petrovich	Brownstein Hyatt Farber Schreck	December 3, 2015

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Friday, October 30, 2015 1:50 PM
To: 'Ron Bingaman'
Subject: RE: Water Board Notice Letter Oct. 26, 2015 request for comments

Mr. Bingaman,

Thank you for your comment.

Sincerely,

Paul Wells
Division of Water Rights
(916) 323-5195

From: Ron Bingaman [<mailto:ron.bingaman@gmail.com>]
Sent: Thursday, October 29, 2015 8:17 PM
To: DWR-Measurement
Subject: Water Board Notice Letter Oct. 26, 2015 request for comments

Good day,

I am providing feedback and comments relating to the notice letter dated Oct. 26, 2015 from the State Water Resources Control Board in which the Board is soliciting comments to assist the Board in creating regulations found in Senate Bill 88, Chapter 27.

I have reviewed the letter content and offer the following comment. There should be a carve out for facilities which divert water on a NON-CONSUMPTIVE basis. If there is no carve out or exception for this type of water right, the data will be screwed if the Board includes the diverted water numbers for these facilities, there will be an artificial surplus created in the data as the water is returned to the waterway.

To keep the data accurate, any non-consumptive water right should be excluded from reporting or as an alternative the Board will have to create some type of calculation to add back in the water that is returned from these facilities back in the water ways.

It would be seem less problematic to just carve out any non-consumptive water rights as the amount of water diverted should be equal to the amount of water returned to the waterway, thus a net zero effect on the amount of available water.

Thank you for considering this comment.

Best regards,

Ron Bingaman
Managing Member
Sierra Green Energy, LLC
530-268-2153

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Friday, October 30, 2015 1:51 PM
To: 'Felice Pace'
Subject: RE: Media Advisory: Salmon Disaster looms in the Scott River Basin

Mr. Pace,

Thank you for your comments.

Sincerely,

Paul Wells
Division of Water Rights
(916) 323-5195

From: Felice Pace [mailto:unofelice@gmail.com]
Sent: Thursday, October 29, 2015 1:18 PM
To: DWR-Measurement
Subject: Fwd: Media Advisory: Salmon Disaster looms in the Scott River Basin

Concerning regulations to implment the new diversion measurement law please see the media advisory below. Please design the regulations to address the out-of-season irrigation and over-diversion under stockwatering rights that occurs year after year in the Scott River Basin. That means reporting must be year around to be effective. And there need to be signifiant consequences for failure to report each month of the year. There needs to be significant and progressively greater fines for failure to report and reporting must be on a monthly basis to be meaningful.

Felice Pace

Felice Pace
Klamath, CA 95548
707-954-6588

"There's a crack in everything; that's how the light gets in."

- Leonard Cohen

----- Forwarded message -----

From: **Felice Pace** <unofelice@gmail.com>
Date: Thu, Oct 29, 2015 at 12:55 PM
Subject: Media Advisory: Salmon Disaster looms in the Scott River Basin
To: undisclosed recipients <unofelice@gmail.com>

KlamBlog Media Advisory

Felice Pace, editor

www.klamblog.blogspot.com

28 Maple Rd. Klamath, CA 95548 [707-9546588](tel:707-9546588) unofelice@gmail.com

Reporters and editors,

There is another salmon disaster in process in the Klamath River Basin but, like much that is newsworthy concerning the plight of salmon in this basin, it is not being reported. I'm asking you to help correct that reality.

Right now flows in the Scott River are 6.5 cfs and the Chinook run which should have been spawning in the Scott Valley for the past two weeks is stuck down in the canyon due to low flow barriers. Unless there are large rainstorms soon, it is highly likely that most of the Chinook salmon production from the Scott River Basin this year will be lost and that will be a major step toward extirpation of Chinook from most of the Scott River Basin. If sufficient rains don't come during the next month, the Coho run will also be negatively affected.

Part of the reason flows are so low is drought. But the unrestrained pumping of groundwater which has lowered the water table prevents the springs which should be feeding the river at this time of year from running until winter rains can replenish the aquifer (see:

<http://www.fws.gov/arcata/fisheries/reports/technical/Van%20Kirk%20and%20Namen%20Base%20flow%20Trends%20JAWRA.pdf>). Also, the practice by some surface water right holders of running their ditches full at this time of year when they only have stock watering rights or even of irrigating out of season because they want to soak pastures are major factors (see photos below).

This is done with impunity because state regulators won't act to stop it in spite of Public Trust complaints which have been filed asking them to end the illegal water use. Below are photos of out-of-season irrigation and a ditch running full during winter. To be clear, these are not from this year but they show practices which occur repeatedly by several irrigators year after year. The California DFW and State Water Board know about this situation but they do nothing to end the illegality. In short, flagrant abuses of water and wildlife laws are well known but ignored by the very officials who swore to uphold those laws. For a 2001 news article documenting this with respect to DFW see [this link](#). Unfortunately, DFW non-enforcement of laws which are supposed to protect fish is ongoing.



Out of season flood irrigation - Scott R Valley - 10/30/07



Ditch from Shakelford Creek running full in December 2009

The US Forest Service holds a right to flows in the Scott for "minimum subsistence-level fishery conditions." This time of year that right is 40 CFS and goes up to 200 cfs in November for the primary right and there is an additional secondary right. As mentioned above flows are currently 6.5 cfs. The FS in-stream right is not met in many months even in years of average precipitation and snow pack.

National Forests were created to secure a timber supply and to achieve "favorable conditions of flow" in western rivers and streams. The water diverted and pumped by Scott Valley irrigators is produced on national forest lands at the headwaters but little to none of that water gets to flow out of the Valley to the Scott River Canyon which is also predominantly national forest land. Yet the Forest Service has refused to ask the State Water Resources Board to regulate water use in the Scott River Valley so that the in-stream flow right for fisheries is met. In this way, managers of the Klamath National Forest have failed to fulfill one of their basic responsibilities.



Scott River near the downstream end of Scott Valley on September 29, 2015

The lack of access to spawning grounds in and above the Scott River Valley is an issue in many recent years (see, for example, the 2012 KlamBlog at [this link](#)). Sometimes the rains and flows come in time for the Chinook and sometimes not. Because their spawning run occurs in November and December, Coho spawning is less often affected.

Please let your readers and listeners know what is going on in the Scott River Basin. Reporters, please ask managers of the Klamath National Forest¹ why they have not insisted that the State Water Board enforce the Scott River Adjudication so that in-stream flows can be met or, in times of shortage like this, so that the shortage does not fall entirely on the salmon. And please ask the State Water Resources Control Board Water Rights Division² why they have not acted on Public Trust Complaints about illegal, out-of-season irrigation and excessive diversion under stockwater rights.

If I can clarify anything above or can be of any help with reporting on the Scott River situation please call me at [707-954-6588](tel:707-954-6588).

Footnotes:

¹Patricia Grantham is supervisor of the Klamath National Forest and can be reached at [707-842-6131](tel:707-842-6131).

²Barbara Evoy is head of the Water Rights Division at SWRCB. Her direct line is [\(916\) 341-5632](tel:916-341-5632). Evoy's assistant in charge of the Public Trust office is Dan Schultz. His direct line is [\(916\) 323-9392](tel:916-323-9392).

Felice Pace
Klamath, CA 95548
[707-954-6588](tel:707-954-6588)

"There's a crack in everything; that's how the light gets in."

- Leonard Cohen

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Friday, October 30, 2015 2:37 PM
To: 'Kathleen Spencer'
Subject: RE: Reporting Requirement

Good Afternoon Ms. Spencer,

The regulation is being developed to allow water users with situations that are difficult to measure with a device the option of submitting a measurement method or other alternative for determining the amount of water they are diverting.

A draft regulation should be released for public review and comment in early December. At that time, we can discuss what the proposed process might be for your specific situation.

Regarding the public meetings, the Division is planning to first run the five public meetings as scheduled and then determine if additional meetings will be held.

The meeting on November 9th from 1:00-4:00 pm will be webcast. The webcast of the meeting will be available at <http://www.calepa.ca.gov/broadcast/>

General information on the regulation process is available on the following webpage:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/

Feel free to contact me directly if you have any specific questions about the regulation or the adoption process.

Sincerely,

Paul Wells
Division of Water Rights
(916) 323-5195

From: Kathleen Spencer [<mailto:ksspencer48@gmail.com>]
Sent: Friday, October 30, 2015 5:47 AM
To: DWR-Measurement
Cc: plcc@garlic.com; Brian Schmidt; cinschmidt@sbcglobal.net; Crystal S. Henzi; David Pariseau; gregastro@sbcglobal.net; izneh34@hotmail.com; jschmidt@tekplusinc.com; schmidt62@sbcglobal.net; schmidt62@sbcglobal.net; Swenson, Stacey@miml.calstate.edu; Sundance Scardino; Tina Jollyschmidt
Subject: Reporting Requirement

To Whom it May Concern (If anyone reads this)

I just picked up my notice from the Water Board at the post office on October 29. I see your letter was posted on October 26 notifying us of the reporting survey you are demanding we fill out and which we used to try fill out. Really nice of you to let us know early so we could arrange to attend the meetings starting November 2. Here is my problem with this all.

We have been taxed on three permits (one contains 3 dams) for years now. That is 5 dams I was supposed to report on. Surveys have been sent out before but I could not fill them out. I called to get help but the person I got was nice

enough but could not realistically help me. How do I fill our surveys for dams who don't contain water for any length of time? You should come out and see our dams in June. You also need to educate the people receiving the surveys. It is all written in government speak.

We live in the Gabilan Range at an attitude of 1500 feet or more. We are actually considered a high desert. In the 1950's the NRCS was giving money to ranchers to build dams. My father did that. He got the 3 permits to build dams. One permit has 3 dams on it. It took me years of phoning Sacramento until I got a knowledgeable person that could at least tell me what dams were on what permits. I am sending you the copies of my bills on these dams and their information. They are located on three ranches BV (Bear Valley), HV (Horse Valley) and PR (Peterson Ranch). I am also sending you the acre feet that my father gave on what water they could contained in acre feet. There is only one of the five (BV Fishing Dam) that is located in a stream (Sandy Creek) and actually diverts water when we have a sizable rainfall. We do have one dam fed by a spring. We don't have enough water in any dam or well to irrigate.

Not only did I get this notification with not much time to respond or go to a meeting, you did not pick a place to have the meetings anywhere near us. You should at least have had one meeting in the Central Coast. Why did you leave us out? We have to resort to emailing you or phoning.

I hope someone is listening. You people need to get out of the office and check out the real world. We just went through this with GRAP.

Sincerely
Kathleen Spencer
Peterson Land & Cattle Co.
27000 Airline Hwy.
Paicines, (San Benito County),CA
831-389-4320

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Tuesday, November 03, 2015 12:16 PM
To: 'Andy Stevenson'
Subject: RE: Comments on water measurement and reporting regulation

Good Afternoon Andy,

Thank you for providing comments on the concepts and recommendations for the water measurement and reporting emergency regulation.

Sincerely,

Paul Wells
Division of Water Rights

From: astevenson07@gmail.com [<mailto:astevenson07@gmail.com>] **On Behalf Of** Andy Stevenson
Sent: Monday, November 02, 2015 4:43 PM
To: DWR-Measurement
Subject: Comments on water measurement and reporting regulation

Hello -

I work for diverter Hydro Sierra Energy LLC, a federally licensed (FERC) hydroelectric power facility in Yuba County, CA. We have four comments on the regulations:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/docs/public_concepts_emerg_reg.pdf

- 1) We believe that a specific methodology for the small hydroelectric power industry should be explicitly included and endorsed in the regulation. This methodology allows for indirect measurement of the amount of water diverted based on a measurement of power output and an established ratio between power and water flow specific to that project (i.e. 1 cfs per 20 kW of power). This is the most common current methodology for small hydroelectric power producers, and is accepted by USGS and FERC. It would provide regulatory certainty for small power producers if it was explicitly approved in the draft regulations.
- 2) We agree with the recommendation under Concept 5 that measurement methods meeting requirements of other agencies should be grandfathered in to the extent they meet accuracy guidelines.
- 3) We also agree with the recommendation under Concept 7 that specific measuring devices or methods shall not be required, but they should meet reasonable accuracy standards.
- 4) Under Concept 9, we agree that the regulation should include a framework for alternative approaches, and that those approaches should be approved if strict compliance is unreasonably expensive or infeasible.

Andy

--

Andrew Stevenson
Hydro Sierra Energy LLC
847.924.3890
[LinkedIn](#)

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Tuesday, November 03, 2015 2:41 PM
To: 'Ben Singer'
Subject: RE: Notice of development of water measurement and reporting regulation

Good Afternoon Ben,

Thank you for your comment.

Staff is recommending the regulation establish a framework for considering alternative approaches. One of the alternatives to consider is the non-consumptive use example you raised in your email.

The draft regulation will likely be released for public review and comment in early December.

Please keep checking the emergency regulation webpage for updates.

http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/

Sincerely,

Paul Wells
Division of Water Rights

From: Ben Singer [<mailto:ben@hydrodynamics.biz>]
Sent: Monday, November 02, 2015 10:29 AM
To: DWR-Measurement
Subject: Notice of development of water measurement and reporting regulation

Sir/Maam,

I have received your letter regarding proposed required water diversion reports. Would there be an exemption for non-consumptive use? We operate a number of small hydroelectric projects and don't feel it would be appropriate for us to have to submit monthly reports.

Thank you

Ben

Ben Singer
Hydrodynamics Inc
375 Holland Ln
Bozeman MT 59718
406-763-4063
406-763-4468 FAX

5 November 2015

Barbara Evoy, Deputy Director
Division of Water Rights
1001 I Street
Sacramento, CA 95814

**SUBJECT: DEVELOPMENT OF WATER MEASUREMENT AND REPORTING
REGULATION**

Thank you for the opportunity to respond to the new reporting issue.

This letter concerns stock pond 5648C-7, Calaveras County. Stock ponds are used in agriculture, and agriculture is a beneficial use. But stock ponds are extremely important to foothill flora and fauna under wildlife enhancement beneficial use, especially during drought conditions.

The new law directs you to establish monitoring programs that will obtain relevant data to help you determine how to meet the goal of providing adequate water supplies state wide. Often, however, the intent of a law does not consider all realities. Such is the case with the new legislation you are tasked to implement. You must now consider priorities and exemptions to best achieve your objectives within your allotted budget.

My stock pond only receives water from rainfall and runoff. It does not receive any water from a purveyor. Nor is the water used for irrigation. As such, no water is received/diverted whenever there is no direct rainfall and runoff.

My Stock Pond

I constructed my stock pond after the 1970's drought. During construction, I had the contour surveyed to give volume to depth measurements. The site contour map with depth to volume table is in your files. The table and a portion of the contour map is Attached. I wanted a relevant method to know the volume of water in the pond at any given time. With the contour map and table, I can now visually estimate the volume of water in the pond. Taking a visual measurement in the fall gives me a low volume reading. Taking a visual measurement in the spring gives me a high volume reading. The difference is the volume of water I stored during the winter. And I report if the pond overflows when it does; however, it has not filled or overflowed during these drought years.

A Big Stick Won't Work

A calibrated post in stock ponds to measure depth will not work. When the water is low, cows, deer, and bears will use the post for scratching and knock it from vertical alignment, thus rendering the post useless as a measuring device. Also, requiring a

measurement of diversion when there is no rainfall or runoff provides no data except a big zero.

Non-Moving Water

A long term objective to require the draining of a foothill stock pond, during the summer of a drought, to provide water for Delta fish or Los Angeles, has no practical reality. Even in a normal year, the down gradient land would be so dry that it would soak up what little water there is like a dry sponge. Down stream users would never see the water. This water will not 'move' to where you would want it to go.

Furthermore, there could be so little water in the ponds that the only way to get the water out of remote stock ponds would be with a bucket.

State Board's Task

You have a Herculean task to implement all the well meaning legislation. However, your agency must put each piece of legislation in perspective, consider how its intent can be practically implemented, compare the cost to benefit of each, and move forward on the biggest bang for the buck. Tax payers want to pay for the highest return. Collecting meaningless data for data collection sake is intellectual ascent with moronic practicality.

What little water there is in stock ponds during drought conditions is:

- minimal compared to other available water,
- cannot be moved to where decision makers would want it to go, and
- cannot be monitored monthly with any relevant meaning.

Furthermore:

- Monthly monitoring of stock ponds will not increase your understanding of how stock ponds operate,
- Transparency of records can be achieved with two measurements which calculate stored volumes through the rainfall months, and
- A true value of stored volume will give you more accurate data on available water.

Therefore, stock ponds not associated with irrigation should be exempt from monthly monitoring. And those stock ponds greater than 10 acre-feet should only be required to provide the volume of water captured during the rainfall year, not the calendar year.

The Real Solution

The most valid solution to provide adequate water supplies state wide is for more reservoirs. And, except for Sikes Reservoir, Temperance Flat Reservoir, and increasing the height of Shasta Dam, the most relevant reservoirs will be ground water basins.

The State Board should focus on implementation of SGMA. Through SGMA, SGA's integrating conjunctive use and banking can store water for future drought relief.

The State Board should not micromanage the process, but rather provide guidelines for the Water Districts with banked water to sell that banked water to entities which need the water. Moreover, the State Board should not interfere in the process of two entities agreeing to and transferring banked or surplus water. Nor should you stop any agreements.

Finally, the Delta Water Master should be expanded to a Supervisor's Unit and be solely responsible for all the new Delta monitoring, all Delta water contracting, and Delta pumping. The Delta Water Master and his staff should be completely separate from all other State Board management.

Northern California water users do not want socialized water and do not want Northern California to be the next Owens Valley only to the benefit of Southern California interests. Furthermore, California is not Australia.

Again, thank you for your time and consideration.

A handwritten signature in black ink, reading "Robert J. Matteoli". The signature is fluid and cursive, with a horizontal line crossing through the middle of the last name.

Robert J. Matteoli, PE
2640 Avalon Drive
Sacramento, CA 95821

Attachment



DAM X-SECTION (no scale)

CAPACITY CALC.

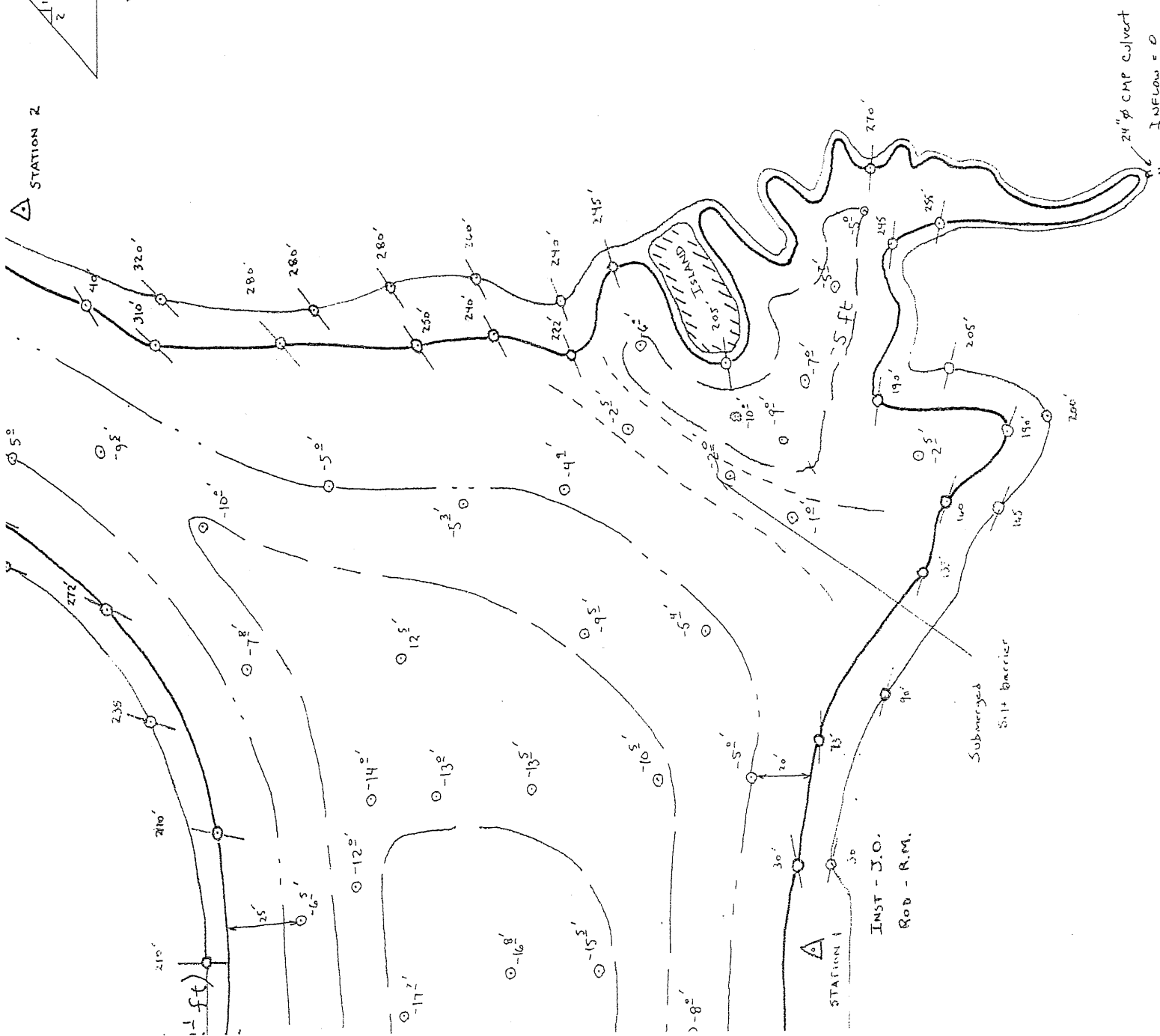
Contour	Area	Avg. Area	Interval	Volume
HWL *	2.83	2.59	2.1	5.44
WS	2.35	1.85	5.0	9.25
-5 **	1.35	1.03	5.0	5.15
-10	0.70	0.49	5.0	2.45
-15	0.28	0.14	2.7	0.38
-17.7				

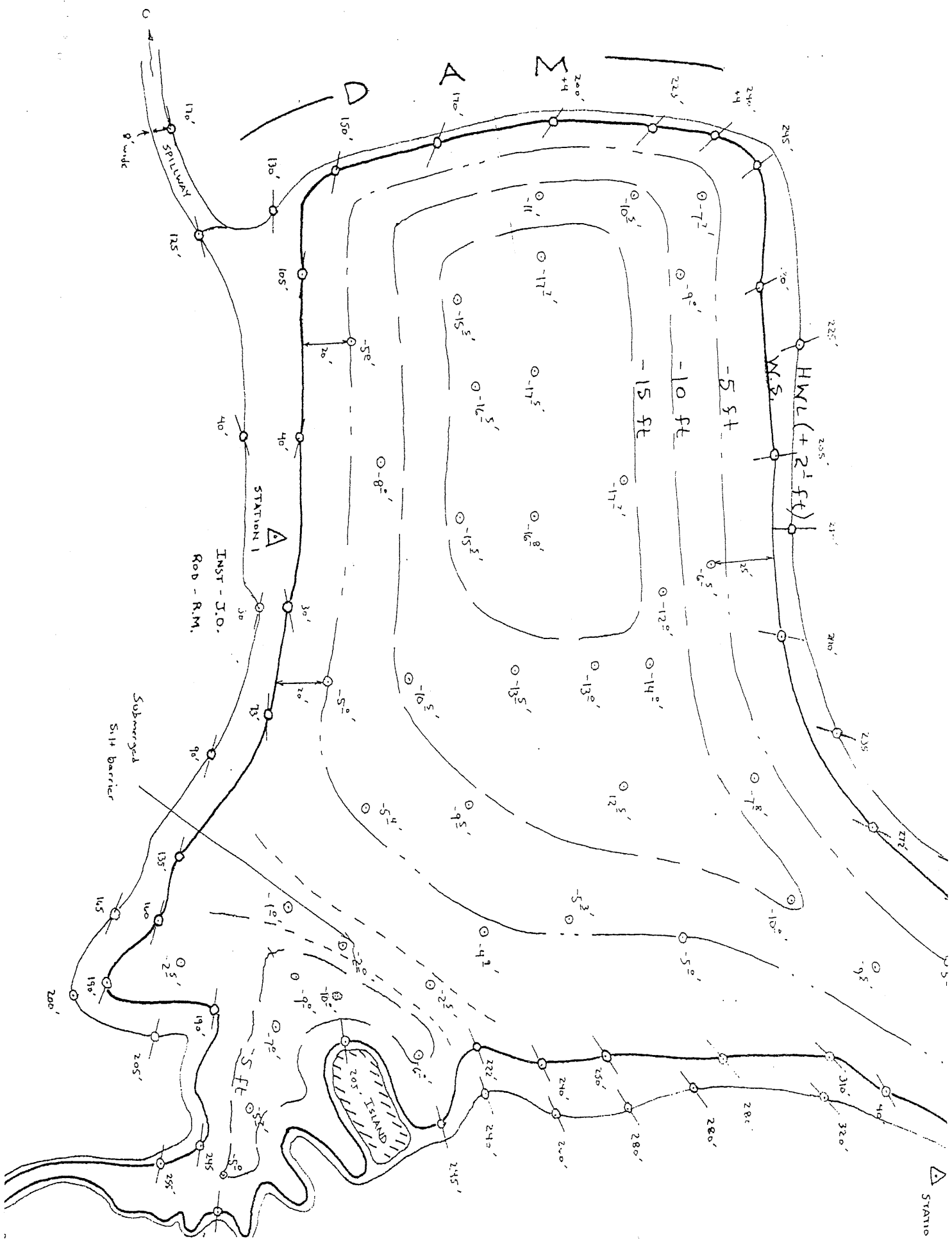
TOTAL = 22.67 ac-ft

* HWL : Less island (2.85 ac - 0.02 ac)
 ** -5 ft : Includes silt barrier (1.29 + 0.06)
 area

SAY 23 ac-ft

12-10-93





DWR-Measurement

From: Bob Pincus <rpincus@wqconsultants.com>
Sent: Thursday, November 05, 2015 12:43 PM
To: DWR-Measurement
Cc: Evoy, Barbara@Waterboards; Mrowka, Kathy@Waterboards
Subject: SB 88

SB 88 mandates SWRCB to collect information on the exact amounts of water diversions . This is a long overdue regulation.

There are, though, some valid concerns as to the accuracy and privacy of the information to be provided. Conversations with farmers, vineyard owners and marijuana growers, representing a major portion of significant water diverters, indicate that there is, simply put, paranoia on the part of landowners about sharing their privileged information. Potentially informing their neighbors as to the specific amount of water diverted and used is not, they feel, in their best economic interests. Undoubtedly, this data collection might become the subject of litigation delaying the collection of the data.

Having recently developed a telemetric, ultrasonic streamflow gauge with a cellular reporting system we have an active interest in how the information is to be reported. So, we offer a suggestion on how to provide SWRCB with the water information that it requires while at the same time protecting the individual rights of landowners.

We propose the establishment of a creditable, third party database that can aggregate each landowners information, consolidating neighboring information and thus creating valid diversion information for a particular water reach while at the same time masking individual diversion data.

The database can be maintained by Humboldt State University who has agreed to aggregate and consolidate the data. The advantage of the HSU database would be the collection of more accurate water diversion information as landowners need not fear exposure, to their neighbors, of their own water diversion and use information. Landowner data will be consolidated by HSU along with other diverters in their reach with only the consolidated information forwarded by HSU to SWRCB.

This would be a win-win for both for the landowners and SWRCB.

Bob Pincus
WQ Consultants
707.624.6679

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Thursday, November 12, 2015 9:20 AM
To: 'becky@calbotany.com'
Subject: RE: Nov. 9th meeting

Good Morning Becky,

The plan is for the regulation to allow water users to propose reasonable alternatives when a device is not economically feasible. I do not know if using readings from an electric meter coupled with an efficiency test will be an acceptable method.

The specific language is still being written. A draft regulation should be released for public review and comment in early December. At that time, we can discuss what the proposed process might be for your specific situation.

General information on the regulation process is available on the following webpage:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/

Sincerely,

Paul Wells
Division of Water Rights

From: becky@calbotany.com [<mailto:becky@calbotany.com>]
Sent: Monday, November 09, 2015 2:30 PM
To: DWR-Measurement
Subject: Nov. 9th meeting

Using SMUD or PGE meters to estimate usage. This was suggested in the meeting. This would be coupled with an efficiency test of the pump, which calculates output per kwh. If this is an acceptable method it would be necessary to decide how long the efficiency test would be good for.

This might be cost effective for farmers if efficiency tests were good for 2-3 years.

cell 916-416-7012

DWR-Measurement

From: Ferguson, Bill <BFerguson@SantaBarbaraCA.gov>
Sent: Monday, November 09, 2015 2:38 PM
To: DWR-Measurement
Subject: Timeline for installation of measuring devices

Regarding Concept 10, please consider that, for government agencies, installation of such devices may entail a feasibility phase, design phase, and a construction phase, subject to public contracting laws and schedules. This process can often take up to a year or more, even for relatively small projects.

Please note new phone # below

Bill Ferguson
Project Manager
City of Santa Barbara
(805) 560-7534
Water Resources Division, Public Works Department
P.O. Box 1990, Santa Barbara, CA 93102
Fax: (805) 897-2613
Email: BFerguson@SantaBarbaraCA.gov
Street Address: 630 Garden Street, Santa Barbara, CA 93101

DWR-Measurement

From: Jason A. Carkeet <jacarkeet@TID.ORG>
Sent: Monday, November 09, 2015 2:00 PM
To: DWR-Measurement
Subject: Reporting Dates

Kathy Mrowka made the comment that the Board wants to stagger the reporting dates because of a fear that the database may not be able to handle an increase in reporting all at one time. From the audience, an apt comment was made with regard to the difficulty of right holders to gather data by April 1 in addition to the issues surrounding the use of provisional data from USGS rather than final data. Given those concerns and others, it appears that the Board faces new challenges due to SB 88, and, rather than address its challenges directly, it wants to foist those challenges upon rights holders. Why does the Board refuse to address its server problems properly?

Jason A. Carkeet
Utility Analyst
Turlock Irrigation District
333 East Canal Drive
P.O. Box 949
Turlock, CA 95381-0949
Phone: (209) 883-8325
FAX: (209) 656-2147

DWR-Measurement

From: Jason A. Carkeet <jacarkeet@TID.ORG>
Sent: Monday, November 09, 2015 2:08 PM
To: DWR-Measurement
Subject: Concept 7

Measurement should be based on contemporaneous industry best practices, which may or may not change over time due to use of standard calculations or changes in technology.

Jason A. Carkeet
Utility Analyst
Turlock Irrigation District
333 East Canal Drive
P.O. Box 949
Turlock, CA 95381-0949
Phone: (209) 883-8325
FAX: (209) 656-2147

DWR-Measurement

From: Jason A. Carkeet <jacarkeet@TID.ORG>
Sent: Monday, November 09, 2015 2:28 PM
To: DWR-Measurement
Subject: Accuracy Standards for Collection to Storage

For collection to storage on all large reservoirs, there are no specific instruments for making such measurements. Instead, operators calculate collection to storage based on other known measurements and using standard calculation methods. These methods are as accurate as possible. The regulation needs to consider this.

Jason A. Carkeet
Utility Analyst
Turlock Irrigation District
333 East Canal Drive
P.O. Box 949
Turlock, CA 95381-0949
Phone: (209) 883-8325
FAX: (209) 656-2147

DWR-Measurement

From: Ivory Reyburn <IReyburn@cvwd.org>
Sent: Monday, November 09, 2015 1:40 PM
To: DWR-Measurement
Subject: SB 88

I agree with the comments made by the representative from Yuma Water District.

- We cannot report our annual permit diversions by April 1.
- We depend on USGS data
- We have multiple permits to report on and gathering the data is complex
- July 1 is a better date.

Ivory Reyburn
Coachella Valley Water District
Water Resources Supervisor
(760) 398-2661, ext. 2200

P.O. Box 1058 Coachella, CA 92236
75515 Hovley Lane East
Palm Desert, CA 92260
www.cvwd.org

DWR-Measurement

From: Wells, Paul@Waterboards on behalf of DWR-Measurement
Sent: Thursday, November 12, 2015 7:56 AM
To: 'Clements, John'
Subject: RE: Question for committee

Good Morning John,

This concern was raised at most of the public meetings and is currently being reviewed by Division staff. Additional information on this topic should be available on our website shortly.

Sincerely,

Paul Wells
Division of Water Rights

From: Clements, John [<mailto:jclements@geiconsultants.com>]
Sent: Monday, November 09, 2015 2:58 PM
To: DWR-Measurement
Subject: Question for committee

GEI provides watermaster service for the Scott-Shasta Watermaster District. Nearly all of the 300+ diversions currently have a flow measuring structure or device but not recording instruments. Does SB88 require water users of diversions within a watermaster district to install and maintain recording instruments?

John P. Clements, PE
Supervising Watermaster



GEI Consultants
Consulting Engineers & Scientists

GEI Consultants, Inc.
2868 Prospect Park Drive, Suite 400 | Rancho Cordova, CA 95670

T: 530.524.5790  530.524.5790

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DWR-Measurement

From: Ryan Hilburn <RyanH@wmbeaty.com>
Sent: Monday, November 09, 2015 2:45 PM
To: DWR-Measurement
Subject: Water Measurement

As was mentioned earlier, the Board has allowed for those to use different measurement methods when permanent installations were not locally cost effective. Most of these diverters have a good program in place. Are these diverters now going to be required to upgrade to permanent installations even though it is still not cost effective?

Additionally, most permanent installations will require DFW permits. This process will take several months to complete. What type of timeframe will be allowed to obtain these permits and complete the installation? With no regulation in place how is a water user able to plan for these processes?

Ryan Hilburn | Southern District Forester | **W. M. Beaty & Associates, Inc.**
50 Hall Street, Suite A | Susanville, CA 96130
P: 530.257.7191 | F: 530.257.2519 | Cell: 530.310.4267 | Email: ryanh@wmbeaty.com



November 10, 2015

Ms. Felicia Marcus
Chair
State Water Resources Control Board
PO Box 100
Sacramento CA 95812-0100

Re: Comments on Senate Bill 88 and Water Measurement Regulations

Dear Chair Marcus:

The California Waterfowl Association appreciates the opportunity to comment on the emergency regulations being developed for the measuring and reporting of diversions of water as required by Senate Bill 88. These comments will address the process by which Senate Bill 88 was passed, and the necessity of tailoring the regulations to avoid inadvertently criminalizing water users who have difficulty in meeting the technical and financial requirements of complying with Senate Bill 88.

First of all, Senate Bill 88 is a prime example of the problems that can arise when a bill that makes a major change in policy is introduced and passed without the proper legislative process. Senate Bill 88 was a "spot" bill with no substantive provisions until it was amended with the final language on June 17, 2015. The bill was then passed as a budget trailer bill in both houses on June 19, 2015, despite the fact the substantive language was not connected to any part of the budget. The bill was not subject to review or hearing by any legislative committee with authority over the subject matter of the bill. The first notice most affected water users received of the bill's existence was the Water Board's notice dated October 26, 2015.

This legislative process was improper and unwise. The result is the imposition of rules that are difficult, if not impossible, for some affected water users to comply with, with the threat of criminal penalties for non-compliance. Any regulations promulgated by the Water Board must deal with these problems by ensuring that compliance is feasible and enforcement is reasonable. Otherwise, water users who are legitimately exercising their water rights under Article 10, Section 2, of the California Constitution will be inadvertently susceptible to criminal penalties.

California Waterfowl owns several managed wetland properties in the Suisun Marsh and Delta, and also represents many duck clubs and other private landowners who divert water to provide habitat for waterfowl and other wetland-dependent species.

We have two main concerns with the proposed regulations. The first is cost. California has lost 90% of its historic wetlands. Two thirds of our remaining wetlands are located on private land. Recognizing the high cost of maintaining these managed wetlands, the state and federal governments have adopted an incentive-based approach to wetland conservation via a variety of landowner-friendly conservation programs.

Despite these efforts, the current drought has significantly reduced available waterfowl habitat, both in managed wetlands and wildlife-friendly farming. With less habitat, wintering waterfowl face increased risk of 1) poor body condition when they make their migration back north in the spring and 2) waterfowl disease outbreak such as cholera and botulism. While Senate Bill 88 does provide some flexibility in cases where monitoring is “unreasonably expensive” or infeasible, our fear is that some landowners may opt out of flooding their wetlands, which would reduce overall waterfowl habitat in California even more.

Efforts by the Board to promulgate emergency regulations associated with enforcement of Senate Bill 88 should consider the following issues (among others that may arise):

1. There are many different methods of diversion of water in California. Measurement of these different methods of diversion will involve different methods, as well. Some may be simple and economically feasible, while others may be complex and unduly expensive. Some recognition of the relative feasibility and cost of methods must be included in emergency regulations.
2. California Waterfowl owns properties in the Suisun Marsh, which it manages for the benefit of migratory waterfowl, a public trust resource. Irrigation and flooding of managed wetlands in the Suisun Marsh depends on tidal flows of brackish water, and involves both diversions and returns of water to the water bodies from which water is diverted. This exchange takes place on a daily basis. Emergency regulations will have to consider how to measure the net diversions of water.
3. Emergency regulations will have to consider the effect the costs of compliance will have on federal, state, and private managed wetlands that provide the habitat to support the public trust resource of migratory birds, waterfowl, and wetlands-dependent species, including listed species.
4. Emergency regulations will also have to consider whether there is a benefit to the state of measuring the diversion of brackish water that has very little use other than the provision of habitat to migratory birds, waterfowl, and wetlands-dependent species, including listed species.
5. Effective hourly monitoring of diversions, as required by Senate Bill 88, may require the installation of transducers, which can be very costly. Where multiple diversions supply one parcel, compliance can be prohibitively expensive.

6. Stock ponds on cattle ranches are a source of habitat for migratory waterfowl. Stock ponds also provide groundwater recharge. Most ponds are not fed by defined streams or channels. A requirement that stock ponds that store more than 10 acre feet per year be measured on an hourly basis will be difficult to comply with and will be extremely difficult to enforce. Loss of the use of stock ponds to non-compliance will not only be a loss to agriculture, but also a loss to wildlife.
7. Emergency regulations will have to consider the loss of water in transit through ditches, canals, and other channels. The loss of water through unlined channels provides riparian habitat for wildlife and also contributes to groundwater recharge.
8. The alteration of current diversion structures to include measurement devices on streams or rivers that contain populations of listed species may require permits from the California Department of Fish and Wildlife, the National Marine Fisheries Service, the Army Corps of Engineers, and other agencies. Emergency regulations will have to consider the time required to obtain the necessary permits and alter the diversion structures.

All in all, this is a very ill-advised bill that will create multiple problems for water users, as well as enforcement and data management problems for the Board. Compliance and enforcement within the time frames set forth in Senate Bill 88 will be difficult at best. The Board would have benefitted from the normal and proper legislative process of hearing bills in legislative committees with subject matter jurisdiction and expertise.

California Waterfowl is willing to work with the Board to craft emergency regulations that would minimize the problems associated with Senate Bill 88, while providing the benefits of improved water measurement. California Waterfowl requests that the Board consider the effects compliance with Senate Bill will have on agencies, non-profits, and private landowners who provide the habitat on which migratory waterfowl and other public trust species depends and craft their emergency regulations accordingly.

If you have any questions or concerns, please contact Mark Hennelly by phone at (916) 648-1406 or by email at mhennelly@calwaterfowl.org, or Jeffrey Volberg by phone at (916) 217-5117 or by email at jvolberg@calwaterfowl.org.

Thank you for your consideration of these comments.

Sincerely,



Jeffrey A. Volberg
Director of Water Law & Policy
California Waterfowl Association

Wednesday, November 11, 2015

State Water Resources Control Board

Dear Water Boards,

I have received your notice dated October 23, 2015 and would like to provide testimony and comments for your consideration in developing regulations to implement the new requirements of SB88. For reference, I am the water right holder of the following licenses:

<i>Application</i>	<i>Permit ID</i>	<i>License ID</i>	<i>Status Date</i>	<i>Face Value Amount</i>
A016811	010721	006196	12/27/1955	28
A016601	010491	006195	09/14/1955	24
A024633	017176	011402	07/02/1974	24
A017981	011398	006197	02/07/1958	6.5
A027588	018926	012318	11/19/1982	6
A016812	010722	006409	12/27/1955	10
A025525	017367	011393	10/12/1977	10
A027589	018927	012319	11/19/1982	7

First, the notice explains that SB88 applies to diverters who divert more than 10 acre feet per year. Does this mean that my licenses that are 10 acre feet are exempt from, or subject to these requirements?

My licenses apply to reservoirs used primarily for stock watering and include wildlife and recreational uses. Currently, our diversions are measured monthly by manual recording from reading a staff gauge at each point of diversion. This is already a significant effort due to the remoteness and terrain required to traverse to access them. The new requirements, as we understand them, have the potential to cause a significant negative impact to our ranching business and may drastically inhibit our ability to exercise our licensed water rights.

In your proposed regulations, please consider that not all diverters are alike and the SB88 regulations may not be justly applicable to all diverters for the same reasons.

Due to the terrain and remoteness of our diversion points (reservoirs), access is not available year round due to weather and road conditions, even with an all-terrain vehicle. Frequent visits or manual measurements are not always possible. Any new regulations requiring collecting and to record time stamped measurements at hourly intervals or devices that would continuously monitor rates and quantity diverted would have to rely on costly instrumentation that would impose an excessive and undue financial burden. There is no electricity available at our diversion points to power such devices and the cost to provide power is also not feasible. In fact, the maintenance required on such devices

and equipment would impose a financial burden and would impact our ability to use our water rights.

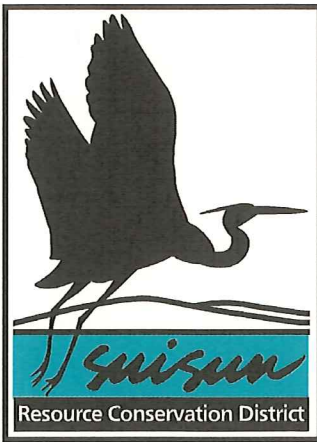
Finally, for such significant potential cost impacts, the results would reflect little or insignificant change in reporting stock watering use where the very small amount of water diverted is collected during storms or used by livestock.

In addition to the above mentioned factors, a waiver request or appeal process should be offered for those diverters who may have circumstances that should deserve special consideration as the new regulations are applied.

Please contact me if you need additional information and thank you for your consideration.

Sincerely,

Mike Bonnheim



November 12, 2015

State Water Resource Control Board
Ms. Barbara Evoy, Deputy Director
Division of Water Rights
1001 I St, 14th Floor, P.O. Box 100
Sacramento CA, 95812

Subject: Comment Letter for the Development of Emergency Regulation
for Measuring and Reporting the Diversion of Water

Dear Ms. Evoy,

The Suisun Resource Conservation District attended the State Water Resources Control Board (SWRCB) workshop in Sacramento on November 9th, 2015 and provided public comments on Senate Bill 88 and the Emergency Regulation for Measuring and Reporting the Diversion of Water. At this workshop it was requested that Suisun Resource Conservation District (SRCD) submit any additional comments in writing on the SWRCB 11 Concepts and Recommendations presented at the workshop.

The SRCD is a special district created by the California Legislature as a legal subdivision of the State of California (Public Resources Code, §§ 9003, 9960 et seq.). SRCD has the primary local responsibility for promoting wetland conservation of the Suisun Marsh through improvements in water management practices on private lands within the primary management area of the Suisun Marsh (*Id.* at § 9962.). These water management practices are directly related to the diversion of brackish water from the Suisun Marsh tidal slough channels.

The Suisun Marsh is located between the western edge of the Sacramento-San Joaquin Delta and the salt water of the San Francisco Bay. It lies within a unique geographic mixing zone that creates this brackish wetland complex. The Suisun Marsh has 52,000 acres of publicly and privately owned diked managed wetlands. These wetlands are managed using brackish water diverted by gravity from the adjacent tidal sloughs to provide wetland and wildlife habitat for resident and migratory wildlife. With the passage of the 2009 Delta Reform Act, the Suisun Marsh was included as part of the "Delta" and was required to file Statements of Water Diversion and Use for the first time under SB 8.

To protect Fish and Wildlife Beneficial Uses in Suisun Marsh, the SWRCB established numeric and narrative salinity standards for the Eastern and Western Suisun Marsh in Water Rights Decision 1485 (D 1485), Order 95-

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Water Manager/Biologist
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Water Manager/Biologist
Dean Podolsky
Water Manager/Biologist
Steve Witherspoon
LJI Resident Caretaker

**SUISUN RESOURCE
CONSERVATION DISTRICT**

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www.suisunrcd.org

6, and Decision 1641 (D1641) and required the USBR and DWR to meet these Salinity Standards. To further reinforce the protection of the Suisun Marsh from increased salinities, the Suisun Marsh Preservation Agreement, Monitoring Agreement, and Mitigation Agreement (SMPA) was signed by Department of Water Resources (DWR), the United States Bureau of Reclamation (USBR), the California Department of Fish and Wildlife, and SRCD. The primary objective of the SMPA is, “to assure that DWR and USBR *maintain a dependable water supply of adequate quantity and quality within the Marsh* to mitigate the adverse effects on the Suisun Marsh of the Central Valley Project (CVP) and State Water Project (SWP) and a portion of adverse effects of other upstream diversions.” To achieve this objective, DWR and USBR implemented the 1984 Plan of Protection for the Suisun Marsh and DWR continues to operate and maintain DWR’s initial facilities, the Suisun Marsh Salinity Control Structure, and water quality monitoring and compliance stations throughout the Suisun Marsh.

The SRCD offers the following questions and comments to address the 11 Concepts and Recommendations presented at Monday’s Workshop:

1. **Why is measuring the volume of brackish water diverted into the Suisun Marsh necessary? Will the measurement of brackish water diverted into managed wetlands provide any useful information to the SWRCB in making decisions about water availability of fresh water for water users upstream of the Suisun Marsh?**
The SWRCB has established salinity standards to protect the brackish nature Suisun Marsh. The water diverted into Suisun Marsh managed wetlands is downstream of the fresh water uses of the Central Valley and Delta. Can a consideration of this fact be addressed in the new Regulations with an exemption or fair consideration?
2. **Water Diversion measurement devices in Suisun Marsh are not feasible and will not be cost effective or produce reliable information for the following reasons:**
 - The Marsh is a corrosive environment for measurement devices due to the brackish salinity conditions.
 - The sizes of these diversions are relatively small and are used for Fish and Wildlife Beneficial use.
 - The diversion sites are in remote locations with limited seasonal access and generally do not have nearby power sources.
 - Daily and hourly extreme tidal stage variation (over 6 feet of vertical variation) at the point of diversion causes continually changing head pressure and flow rates at each diversion site.
 - Diversion flows stop daily for extended periods of time. This occurs at low tide when water levels are higher in the managed wetlands than the adjacent tidal slough.
 - Most all water diversion structures in the Marsh are dual purpose flood and drain structures. On high tide water may be diverted into the managed wetland, but at low tide water can be drained out of the same structure.
 - Fouling of measuring devices (barnacle growth, siltation, and growth of biological debris) occurs in water control structures that are inundated for most of the year.
 - Water control structures and bulkhead walls are permanently installed within the exterior levee profiles. The removal of these pipes and replacement is cost prohibitive (\$15,000 to \$35,000 each) and would have significant environmental

and regulatory constraints to avoid wetland impacts and protection of several Federal and State listed aquatic and terrestrial species.

- Utility of data provided by the installation of water reporting devices would be of limited value, due to the physical location of these diversions within the lower Bay-Delta Watershed.
- SRCD believes that the current estimate of flooded acreage and water level staff gauge measurements is adequate to “measure” the brackish water diverted for Suisun Marsh wildlife habitat management.

3. Can the implementation of the measurement of diversion requirement be phased in?

- The phasing could be based upon the geographic location (starting with upstream diversions first), prioritizing large diversions, or the fact that the water being diverted is brackish.

Thank you for your consideration of SRCD comments and we look forward to working with your staff in the development of Emergency Regulations for Measuring and Reporting the Diversion of Water.

Sincerely,



Steven Chappell,
Executive Director

Cc. SRCD Board of Directors
Michael George, Delta Watermaster
Paul Forsberg, DFW Water Branch
Pat Graham, DFW Manager Grizzly Island Wildlife Area
Mr. Bill Gaines, Gaines and Associates
Mark Hennelly, California Waterfowl Association

DWR-Measurement

From: Bob Pincus <rpincus@wqconsultants.com>
Sent: Thursday, November 12, 2015 2:51 PM
To: DWR-Measurement
Subject: SB 88 Regulations

After attending the recent SB 88 regulations discussion in Sacramento I have the following suggestions and comments.

1. It might be helpful for your forecasting model if the streamflow of the water source was measured just prior to the diversion.
2. Quarterly reporting, instead of annually, might assist in more rapidly adjusting to any changing streamflow conditions.
3. In this day and age, electronic reporting should be required.

Comments:

Concept 7. SWRCB is currently listing, since 2011, various types of measuring devices. Your web pages include the listing of a number of vendors and their websites. This seems to be a sensible way of informing the public on what types of measuring and reporting devices are available without the State having to make specific endorsements. You might want to consider continuing on with this policy.

Concept 8 . Collaborative measurements should lead, in time, to diversions taken in a sequential manner among the collaborators.

Concept 11. The manufacturer's statement of accuracy should probably be sufficient.

Bob Pincus
WQ Consultants
707.624.6679

STATE WATER RESOURCES
CONTROL BOARD

2015 NOV 17 PM 3:23

DIV OF WATER RIGHTS
SACRAMENTO

AB
PW

Linda Dismukes Boudier

Attorney at Law #099221
2660 16th Street
Sacramento, CA 95818
(916) 448-3416

Friday, November 13, 2015

**NOTICE REGARDING
DEVELOPMENT OF WATER MEASUREMENT AND REPORTING REGULATION
Cal EPA Headquarters Building
1001 I Street, Sacramento, CA 95812**

**Your Letter dated 10/26/215.
Postmarked 11/02/2015
Your Hearing held 11/09/2015
SBA 88**

**Attn: Barbara Evoy, Deputy Director
Division of Water Rights.**

With respect, I have serious legal concerns about the competency of the implementation plan for SB88. **Please notify your superiors of the following:**

The presentation for SB88 was shockingly condescending and remedial, at best. The presentation was very slow, as if the audience was inept or stupid. It is my opinion that you may qualify to talk to those farmers/diverters/ riparian rights owners if you can fix anything with WD-40 and a Craftsman's wrench.

I was horrified at the reading ability of 4th grade language bullet notes at the Sacramento hearing. The presentation appeared to consist of four hours of reading a pre-determined script. Taxpayers pay for this service?

NOTICE OF REQUEST FOR ACCOMMODATION

On behalf of a class to be defined by the Federal Court, described as all water rights owners, most specifically defined as pre-1914 riparian rights owners of land contiguous with, but not limited to, the following coastal rivers: Sacramento, Klamath, Smith and Russian Rivers, with the class to be expanded, if appropriate, upon request and application to Federal Court:

The Request is for an alternative to web-based reporting requirements. Your web-based reporting requirements are unconstitutional under both State and Federal Constitutions. My court-awarded rate is \$550 per hour if you need further guidance. I recommend State attorneys.

All this means is that the State of California must be able to scan a hand written document into their computer system. If you can not do that and wish to shift the Internet burden to individual farmers, then you will establish legal justification for a class action

Please understand and realize that rural farmers may not have access to the Internet.

In qualifying myself in the class, I am on an extended waiting list for rural internet access, of unknown duration, with insufficient ports for service by what appears to be the only internet service provider. Cell phone service is intermittent. Rural farmers have this burden and small farmers can not simply hire someone else to comply with SB88. The burden appears to run with the land, as do the water rights.

Any law, constitutional on its face, may be unconstitutional, as applied.

In listening carefully to the 4th grade presentation, you may lack the capacity to enforce SB88 in a constitutional manner without a more sophisticated computer staff and program.

In deference, please create a different reporting requirement that does not depend on the Internet nor the computer. On behalf of a class of riparian rights owners, typically farmers, this is not negotiable. I am required by the Code of Professional Ethics to request that you forward this Notice to your legal staff.

Your/their timely and reasoned response is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Boudier". The signature is fluid and cursive, with a large initial "L" and a stylized "Boudier".

Linda D. Boudier
Attorney at Law, #099221

DWR-Measurement

From: Ferguson, Bill <BFerguson@SantaBarbaraCA.gov>
Sent: Monday, November 16, 2015 11:56 AM
To: DWR-Measurement
Cc: Dyer, Kelley A.
Subject: Development of Water Measurement and Reporting Regulation

Thank you for conducting information meetings and providing an opportunity to provide input on development of regulations on diversion measurement. Please consider the following comments:

1. Our diversions are in remote locations and are typically set at fixed rate for periods of days or weeks at a time, but monitored and read daily. The regulations should provide an exception from the requirement for hourly observations or recordings for such situations, subject to a requirement that the diversion totals be calculated and regularly reported on a daily basis.
2. Regarding proposed standards for accuracy of measurements, the regulations should provide for the accuracy of a device to be determined based on the application of accepted estimates of accuracy for a given type of device, subject to confirmation by a qualified person that the device as installed can be expected to meet that level of accuracy. This is to address the fact that many measurement locations will have no feasible or cost effective means of conducting an actual test measurement to confirm accuracy.

Please feel free to contact us if you have questions. Thank you.

Bill Ferguson

Project Manager
City of Santa Barbara
(805) 560-7534
Water Resources Division, Public Works Department
P.O. Box 1990, Santa Barbara, CA 93102
Fax: (805) 897-2613
Email: BFerguson@SantaBarbaraCA.gov
Street Address: 630 Garden Street, Santa Barbara, CA 93101

November 17, 2015

To: California State Water Resources Control Board

Sent via Email to: dwr-measurement@waterboards.ca.gov

Re: Senate Bill 88 and the Emergency Regulation for Measuring and Reporting the Diversion of Water.

Thank you for the opportunity to comment on the proposed regulations to implement SB 88.

We appreciate you holding a hearing in Redding. Unfortunately, the notice of the hearing was received only a few days prior. Many water right holders were unaware of SB-88 and its significant impacts upon their ability to divert water, without fear of extreme fines and criminality. With the law going into effect on January 1, 2016 no one has time to prepare or even to know what is necessary to comply with the proposed regulation.

In writing the regulation, SWRCB must ensure that there is no erosion or forfeiting of water rights, which is an actual property right tied to the land owned, by this reporting process. Due to the drought or other factors, a water right holder may use less than their allotted right, that is a good action by the water right holder that should be honored, it should not be a penalty.

Water is diverted in many different ways in California. One size does not fit all. This process needs to be done over a long period of time, not all at once. Your regulation should address the ability to stagger requirements over several years. Just the ability to have the emergency regulation written, out for public comment and then in place by January 1, 2016 is not a reasonable expectation.

The burden for an estimated 12,000 water right holders across the state to install a "best available" technology measurement device is truly unreasonable. We encourage you to consider current, very simple and straightforward technologies that are cost effective. Otherwise, the cost to the water right holder and to SWRCB staff may be very large. That additional financial burden is unnecessary. I am submitting a picture of our very simple, straightforward and effective measuring device that both we and our water master use.

The requirements for the proposed rules for stock ponds should be raised to at least 50 acre feet and only for those ponds that have inlets and outlets or stockponds should be completely eliminated. Stockponds create riparian habitat that benefits wildlife and also contributes to ground water recharge.

We report our stockpond use and pay our \$150 fee. Often the SWRCB website does not allow reporting. Yet, no paper reporting is allowed. This is one example of the technical difficulties



that have been experienced. And yet, water right holders will be at risk of fines. Our two stockponds have NO inlet or outlet. They fill from precipitation that falls from the sky. That provide water for our livestock and wildlife. Stockponds such as these should be eliminated from the regulation.

Diverters may be required to get 1602 permits from CA Department of Fish and Wildlife to install a measurement device. Additionally if they are on a stream or river with steelhead or salmon they will need to consult National Marine Fisheries (and possibly obtain a permit) and may also need an Army Corps of Engineers permit. This process often takes years to complete. How can this work with the proposed regulation? The regulation must allow for flexibility and take into consideration other agency involvement.

It is difficult to understand how all of this information will enhance the ability for the SWRCB to manage water rights and diversions beyond what they currently have today? As I mentioned above, we currently report our use on the stockponds (when the website is cooperative). Our surface water rights are reported through the DWR water master. You have every bit of information you need from us. How is this new layer going to make any difference, except costing the state (taxpayers) and perhaps the water right holders money and time?

Not only will it become difficult and costly for the SWRCB and DWR to actually manage all of this data, it also appears that SB-88 has not been properly vetted through the hearing process. It should be put on hold and revised into a workable piece of legislation that could be of benefit to the people of California.

Sincerely,



Henry and Pam Giacomini

41363 Opdyke Lane

Hat Creek, CA 96040

pam@hatcreekgrown.com

530-335-7016

Cc: Nathan.weaver@waterboards.ca.gov

Brian.Dahle@asm.ca.gov

Ted.Gaines@sen.ca.gov



Shasta County

BOARD OF SUPERVISORS

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DAVID A. KEHOE, DISTRICT 1
LEONARD MOTY, DISTRICT 2
PAM GIACOMINI, DISTRICT 3
BILL SCHAPPELL, DISTRICT 4
LES BAUGH, DISTRICT 5

November 17, 2015

To: California State Water Resources Control Board Chair Felicia Marcus
Sent via email to dwr-measurement@waterboards.ca.gov

Subject: Senate Bill 88 and the Emergency Regulation
for Measuring and Reporting the Diversion of Water

Thank you for the opportunity to comment on the proposed regulations to implement Senate Bill (SB) 88.

We appreciate you holding a hearing in Redding. Unfortunately, the notice of the hearing was received only a few days prior. Most water rights holders were unaware of SB 88 and its significant impacts upon their ability to divert water without fear of extreme fines and criminality. With the law going into effect January 1, 2016, no one has time to prepare or to know what needs to be done.

In writing the regulation, the California State Water Resources Control Board (SWRCB) must ensure that there is no erosion or forfeiting of water rights (which are an actual property right tied to the land owned) by this reporting process. Due to the drought or other factors, a water rights holder may use less than their allotted amount; that is a good action by the water rights holder that should be honored and should not be penalized.

Water is diverted in many different ways in California; one size does not fit all. This process needs to be conducted over a long period of time, not all at once. Your regulation should address the ability to stagger requirements over several years. Just the ability to have the emergency regulation written, presented for public comment, and then in place by January 1, 2016 is not a reasonable expectation.

The burden for an estimated 12,000 water right holders across the state to install a "best available" technology measurement device is truly unreasonable. We encourage you to consider current, very simple and straightforward technologies that are cost effective. Otherwise, the cost to the water rights holder and to SWRCB staff may be very large. That additional financial burden is unnecessary.

The requirements for the proposed rules for stock ponds should be raised to at least 50 acre feet or completely eliminated. The 50 acre foot requirement needs to be for each pond. Most ponds do not have defined channels feeding them (or have several). It is difficult or almost impossible to monitor them. Stockponds create riparian habitat that benefits wildlife and also contributes to groundwater recharge. Water rights holders report their stockpond use and pay their \$150 fee. Often the SWRCB

website does not allow for reporting. Yet, no paper reporting is allowed. This is one example of the technical difficulties that will be experienced. And yet, water rights holders will be at risk of fines.

Diverters may be required to get California Department of Fish and Game, Section 1602 permits in order to install a measurement device. Additionally, if they are on a stream or river with steelhead or salmon they will need to consult National Marine Fisheries (and possibly obtain additional permits) and may also need an Army Corps of Engineers permit. This process often takes years to complete. How can this possibly work with the proposed regulation? The regulation must allow for flexibility and take into consideration other agency involvement.

It is difficult to understand how this information will enhance the ability for the SWRCB to manage water rights and diversions beyond what they currently have today.

Not only will it become difficult and costly for the SWRCB and the Department of Water Resources to actually manage all of the data, but it also appears that SB 88 has not been properly vetted through the hearing process. It should be put on hold and revised into a workable piece of legislation that could be of benefit to the people of California.

Sincerely,



LEONARD MOTY, CHAIRMAN
Shasta County Board of Supervisors

cc: Congressman Doug LaMalfa
Assembly Member Brian Dahle
Senator Ted Gaines
Senator Dianne Feinstein
Senator Barbara Boxer



Mendocino County Farm Bureau

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Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

November 18, 2015

State Water Resources Control Board
P.O. Box 2815
Sacramento, CA
95812-2815

Via Email: dwr-measurement@waterboards.ca.gov

RE: SB 88 and the Emergency Regulation for Measuring and Reporting the Diversion of Water

Dear Board Members and Staff,

The Mendocino County Farm Bureau (MCFB) is a non-governmental, non-profit, voluntary membership, advocacy group whose purpose is to protect and promote agricultural interests throughout the county and to find solutions to the problems facing agricultural businesses and the rural community. MCFB currently represents approximately 1200 members

After reviewing the language within SB 88 and the handouts provided by SWRCB staff at the public meeting held in Santa Rosa on November 12, 2015 to discuss the regulation development related to SB 88, MCFB would like to provide the following comments, questions and suggestions.

Concept 1 Recommendation: For water diverted in 2016 and after, the annual water use reports for permits, licenses, stock ponds and registrations should be filed prior to April 1 of the year following the diversion. Annual use reports for statements shall be filed prior to July 1 of the year following the diversion, as specified by statute.

Since reporting deadlines will potentially be changing for a number of diverters, MCFB requests that the SWRCB promptly notice all diverters of the required changes to reporting deadlines. It is also important that the eWRIMS online reporting system be altered in a timely manner in order for diversions to be reported prior to the deadline. Directions for how to properly report under the requirements of SB 88 and the related regulation should also be clearly described to diverters in future correspondence.

Concept 2 Recommendation: When flows or projected flows in a watershed or subwatershed are sufficient to support some but not all diversions, water diverters located within the watershed or subwatershed may be required to electronically submit monthly diversion records.

If changes to reporting frequency are to be implemented, sufficient evidence of a benefit to the watershed or subwatershed needs to be considered for the additional reporting and data processing requirements. Sufficient notice should be provided to diverters if any change in reporting frequency is anticipated.

Concept 4 Recommendation: Measurement should be required when the total amount of water diverted under an individual right, or an individual right in combination with other bases of right for the place of use, exceeds 10 acre-feet per year.

This concept will create monitoring standards for a number of diverters and will add layers of complexity to the reporting process. This is especially true for smaller diversions of stock ponds, small domestic and small irrigation registrations since these types of diversions, when combined under a place of use will trigger the need for multiple measuring devices and increased expenses to the diverter. The complexities of individual diversion systems and fiscal impacts to the diverter need to be considered. Will there be an economic impact report affiliated with this regulation?

Concept 7 Recommendation: The regulation should not list specific measuring devices or specify methods. Measurement devices and methods should be required to meet reasonable accuracy standards.

It is appreciated that the recommendation is to not overly limit the measuring devices or methods that can be used to meet compliance with the requirements of SB 88. However, there needs to be some guidance for both new and existing installations of metering devices so that diverters are not found to be out of compliance. In addition, since “best available technology” is constantly changing, there needs to be consideration for what will best meet water reporting needs without forcing diverters to upgrade measurement devices every time improved technology becomes available. Consideration also needs to be given for diversions that may be restricted from using “best available technology” due to location, topography, lack of electrical connection, etc.

It was mentioned at the public meeting that the definition of a reasonable accuracy standard is being based on existing DWR standards of 10% accuracy rate for new installations and 12% accuracy rate for existing installations. MCFB requests that a clear accuracy standard be defined so that diverters understand what is required.

MCFB also requests consideration for the significant amount of money that has been invested in the last ten years on metering devices for compliance with water use reporting. This regulation may make that investment obsolete. For those existing metering devices, there needs to be language included in the regulation that provides clarity on what is expected to be accepted for compliance for existing meters and/or flexibility within concept 9 for individual diverters to submit alternate plans for compliance.

In the language of SB 88, Section 15, Article 3. 1840(B)(2), it states that, “ *The permittee or licensee shall maintain a record of all diversion monitoring that includes the date, time and diversion rate at time intervals of one hour or less, and the total amount of water diverted. These records shall be included with reports submitted under the permit or license, as required under subdivision (c) or upon request of the board.* ”

Regarding this section, it was mentioned at the public meeting that the SWRCB is not intending to require hourly metering, but accuracy and frequency of metering devices will be based on specific watershed needs. MCFB encourages the SWRCB to not require hourly meter reports as this will create an excessively large amount of data to collect and process with potentially little benefit. If there will be variations in frequency of water measurement intervals based on individual watersheds, this methodology needs to be scientifically based and discussed with the diverters within the watershed in question.

Concept 9 Recommendations:

Determinations of these circumstances is situation dependent.

The regulation should establish a framework for considering alternative approaches to compliance for a specific measuring device or measurement method, or for a type of measurement device.

When reviewing a request for an alternative, the State Water Board should consider the impact of diversions on the watershed based on watershed characteristics and the relative size of the diversion to the overall amount of natural stream flow.

A water user requesting an alternative approach should submit a reasonable plan for attaining compliance. A water user should be required to diligently implement the proposed plan.

Within SB 88, Section 15, 1840(b)(1)(A)(B) it states that the board may modify the monitoring and reporting requirements of subdivision (a) upon finding that:

- (A) That strict compliance is infeasible, is unreasonably expensive, would unreasonably affect public trust uses or would result in a waste or unreasonable use of water;*
- (B) That the need for monitoring and reporting is adequately addressed by other conditions of the permit or license.*

This section of SB 88 supports the need for inclusion in the regulation of some ability for diverters to apply for alternate means of compliance based on the needs of the individual situation related to their diversions. The regulation needs to expand upon the ability for a diverter to submit an alternative plan, what the approval process will look like and what will be required to submit to prove that the alternative plan is being implemented. This section also acknowledges that a number of existing conditions in permits or licenses already include metering requirements. This regulation should not create an additional layer of duplicative conditional metering requirements for diverters.

There also needs to be consideration of impacts to senior water rights holders that have older rights that may have the inability to easily comply with new metering standards because of the nature of the age of their diversions and related facilities.

Diverters that are required to install new metering devices may also be limited in how and when installations are performed based on additional regulatory requirements such as 1600 permits from the California Department of Fish and Wildlife.

Concept 10 Recommendations: The measurement requirements should be implemented on a staggered basis. Staggered implementation could lead to increased compliance. Timelines for compliance should consider the size of the diversion and the characteristics of the watershed that the diversion is located in.

Where appropriate, the regulation should allow for interim and multiyear plans to allow diverters to achieve full compliance.

MCFB appreciates the consideration for staggered implantation and multiyear plans for compliance. An extended time frame will allow for reduced cost impacts, the ability to order and install appropriate devices and an increased understanding of compliance requirements.

A clear time frame for the installation of metering devices, on a standard or staggered schedule, needs to be included in the regulation so that there is a clear process for diverters to use to analyze their own diversion situations and plan the best

pathway toward compliance. This schedule needs to consider and compliance timing differences for the various forms of diversion (licenses, statements, registrations, etc).

Concept 11 Recommendations:

The regulation should be flexible to allow qualified individuals to install and maintain water measurement devices that have been lab certified, provided the installation is made in accordance with the protocols specified by the manufacturer.

Where lab certification is not applicable, field certification of a measurement device or method should require a licensed engineer or other qualified professional.

The regulation should require periodic field inspections to verify the device or method continues to provide measurements meeting the regulation's accuracy standard.

The inspection process could be prioritized based on the size of a diversion or other criteria.

Qualified individual needs to be defined and not written to be overly restrictive so that property owners cannot install their own measurement devices while meeting the accuracy requirements of the regulation. This reiterates the need to clearly state what the regulations accuracy standard will be so that the inspection process and related requirements are consistent. The regulation also needs to define who will be accepted to perform the inspections of the metering devices and how the inspection related information needs to be submitted to the SWRCB.

MCFB appreciated the opportunity to provide comment on the development of the emergency regulation for measuring and reporting the diversion of water as related to SB 88 requirements. MCFB encourages the SWRCB and staff to consider the comments and suggestions above during the drafting process for the regulation language.

Sincerely,

A handwritten signature in cursive script, reading "Frost Pauli".

Frost Pauli
President

SHASTA COUNTY CATTLEMEN'S ASSOCIATION

P.O. BOX 494143
REDDING, CA 96049-2401

November 18, 2015

To: California State Water Resources Control Board

Re: Senate Bill 88 and the Emergency Regulation for Measuring and Reporting the Diversion of Water.

From: Shasta County Cattleman's Association

Thank you for the opportunity to comment on the proposed regulations to implement SB 88. We believe that SB-88 is unworkable and one of the worst pieces of legislation regarding water rights and diversions that we have seen. It is interesting that these sweeping changes are coincidental to the lingering drought compared to being straight forward on perhaps another agenda. We will however, comment on the proposed regulations.

1. First the notice of the hearings by the State Board where received only a few days prior to the hearings in our area. Most of our members were completely unaware of SB-88 or its draconian impacts upon their ability to divert water, without fear of extreme fines and criminality. With the law going into effect on Jan 1, 2016 no one has time to prepare or even to know what is needed to be done.
2. We believe that the State Water Resources Control Board (SWRCB) should request the Dept. of Water Resources to first place accurate measurement devices in rivers and streams so you know how much water is in a given stream at a given time. If we do not know how much water is available how you can know if diverters are taking too much?
3. In writing the regulation, SWRCB must ensure that there is no erosion or forfeiting of the water right, which is an actual property right tied to the land owned, by this reporting process. Due to the drought or other factors, a water right holder may use less than their allotted right, that is a good action by the water right holder, it should not be a penalty.
4. Water is diverted in many different ways in California. One size will not fit all. Any monitoring that is done should be done starting with largest diverters in a given watershed and work its way down to the smaller diverters. This process needs to be done over a long period of time-- not all at once.
5. The Shasta County Cattleman and the local UC Cooperative Extension Livestock Advisor have been working together over the last few years holding water education workshops and placing measuring devices on diversions in an effort to provide the local ranching community with information on measuring water and changes in regulations. There has been some failure of the equipment and data management has proved to be cumbersome. Downloading and summarizing transducer data to meet the monthly reporting is a herculean task. While the cost of the transducers is estimated at about

\$1500 this does not include a laptop computer or the time required to manage and summarize data. Nor does it include the cost and effort associated with the installation of a measurement weir.

6. Many ranches have numerous diversion points and the cost will be commensurate to that. We do not see an "economy of scale" associated with monitoring additional diversions.
7. In Shasta and Tehama counties a winter range ranch of 5,000 to 10,000 acres is not uncommon. Most ranches have multiple stock ponds. These ponds are necessary to provide water for cattle (water requirement for a mature cow estimated at 25 gallons a day). Installing measuring devices and managing the flow data for these ponds will be extremely burdensome and won't provide much additional information to the SWRCB. The requirements for the proposed rules for stock ponds should be raised to at least 50 acre feet or completely eliminated. The 50 acre foot requirement needs to be for each pond—not cumulative for each water right holder. Most ponds do not have defined channels feeding them (or have several). It is difficult or almost impossible to monitor them. Stock ponds create a lot of riparian habitat that benefit wildlife and also contribute to ground water recharge.
8. Many of the owners of farms and ranches in the mountains and foothills do not have the technical expertise, ability or internet access to communicate this information electronically to the state. Additionally, when water right holders try to report now, as is required for their stock ponds, the SWRCB website is often down and does not allow for reporting. Yet, no paper reporting is allowed. This is one example of the technical difficulties that will be experienced. And yet, water right holders will be at risk of fines.
9. Diverters may be required to get 1602 permits from CA Department of Fish and Wildlife to install a measurement device. Additionally if they are on a stream or river with steelhead or salmon they will need to consult National Marine Fisheries (and possibly obtain a permit) and may also need an Army Corps of Engineers permit. These can take years to get how does this fit into the regulations?
10. How does having this information (as all this data will be old news by the time SWRCB gets it) enhance the ability for the SWRCB to manage water rights and diversions today?
11. We question the ability of SWRCB and DWR to actually manage all of this data that is being asked for.

SB-88 has not been properly vetted through the hearing process. It is a terrible bill that the Governor should never have signed. We will be working with our local legislators to have it retracted.

Sincerely,


Rich Fischer, President

Shasta Co. Cattlemen's Association

Cc: Jack Rice, CA Farm Bureau Federation

Billy Flournoy, California Cattlemen's Association

Senator Ted Gaines

Assemblyman Brian Dahle,

DWR-Measurement

From: Suzanne Womack <jsagwomack@gmail.com>
Sent: Sunday, November 22, 2015 3:56 PM
To: DWR-Measurement
Subject: Decisions

I attended the 11/9/15 Water measurement meeting. My comments are not accurately reflected. Why isn't a court reporter taking accurate notes? I can find no information on how we are supposed to implement this plan or what is a realistic timeline. I request that the December 16th workshop have accommodations for all hard of hearing farmers. The average age of farmer is 61. My father was unable to participate in the 11/9 meeting due to lack of basic hearing accommodations. Isn't this in direct violation of ADA????

Suzanne Womack

DWR-Measurement

From: Rockwell, Marcia@Waterboards
Sent: Tuesday, November 24, 2015 7:55 AM
To: Emmy Cattani
Cc: DWR-Measurement
Subject: FW: Inquiry Regarding Senate Bill 88 - Adobe Valley, LLC
Attachments: SWRCB Notice_Adobe Valley.pdf

Dear Emmy,

I am forwarding your email to the email address on the letter you attached to answer your questions (below) and assist you.

Sincerely,

Marcia Rockwell

From: Emmy Cattani [<mailto:emmy@cattanifarming.com>]
Sent: Monday, November 23, 2015 4:11 PM
To: Rockwell, Marcia@Waterboards
Cc: Katie Cattani
Subject: Inquiry Regarding Senate Bill 88 - Adobe Valley, LLC

Dear Marcia,

I'm writing to inquire about the attached notice we received from the SWRCB regarding new reporting requirements for our property in the Adobe Valley. You corresponded last year with my sister Katie (now on maternity leave) regarding our water reporting requirements for Adobe Valley, LLC, so I thought you might be able to help us understand the new requirements alluded to in this notice.

The notice states that all diverters will now be required to report annually, but it does not provide a deadline for submitting reports or methodology for complying with the regulations. Will we receive another letter explaining how to comply with the law and where and how to submit our reports?

Adobe Valley, LLC has two licensed appropriative water rights (License #7271 and License #2622), for which we have been submitting annual reports, plus two riparian water rights (S016600 and S016001), for which we have been submitting tri-annual reports. Does this new law mean that we now must submit annual reports for the riparian as well as the appropriative rights?

The notice also mentions that we will be required to submit monthly reports during dry periods. Will we receive notification when this requirement is in effect and information on how to submit these reports?

Finally, the notice asks for feedback on the SB 88. I would suggest further automation of the reporting process. We currently receive paper notices in the mail with a single use user-name and password for reporting. It would be much more efficient to send electronic notifications and have an ongoing account for each water user where we can log in with the same user-name and password each time we need to submit a report.

I would also encourage the State Water Resources Control Board to consider lesser reporting requirements for isolated watersheds and groundwater basins where most or all of the water use is for livestock grazing and the basin has not been prioritized under the SGMA groundwater legislation. The Adobe Valley would fall into this category, as would many

of our neighboring watersheds and basins in eastern California. Our water use is much less intensive than in other parts of the state, with few users and little to no intensification since diversions began many decades ago. We have healthy perennial streams and a groundwater basin that is managed sustainably and is deemed low priority under the SGMA.

Thank you,
Emmy Cattani



PARADISE IRRIGATION DISTRICT

6332 Clark Road, Paradise CA 95969 | Phone (530)877-4971 | Fax (530)876-0483

November 23, 2015

State Water Resources Control Board
dwr-measurement@waterboards.ca.gov

Subject: Comments on the Emergency Regulation for Measurement and Reporting

Dear Sir or Madam:

Paradise Irrigation District (PID) has been following the development of the new measurement and reporting requirements contained in SB 88. PID writes to express its concern with the stated requirements and their application. Even with the use of best available technology it is impossible to achieve the required measurement accuracy over time intervals of one hour or less at PID facilities.

Background

SB 88 has created the requirement that water users begin new water measurement and recording efforts that include making hourly measurements of the rate of direct diversion, the rate of collection to storage, and the rate of withdrawal or release from storage. It further requires that these measurements must be "accurate measurements within an acceptable range of error." When asked to define what constitutes an acceptable range of error, Water Board staff indicated that the DWR standard would be applied. This standard apparently requires that a measurement should be accurate to within 10 percent for new measuring equipment, and within 12 percent for used equipment.

Article 3 of SB 88 lists 5 devices and methods for conducting these measurements. Considering these:

- The first method involves measuring pump output. For water right holders, like PID, that divert large flows of water by gravity, without pumping, this method is neither applicable nor practicable.
- Three methods involve making staff gage measurements. Measurements by staff gage are limited by various physical and practical conditions to a maximum accuracy of about ± 0.01 feet. For water right holders, such as PID, that divert continuously throughout the year, making hourly staff gage measurements is impractical due to the cost of providing the number of personnel necessary to carry out these measurements 24 hours per day/7 days per week/365 days per year. Also, in mountainous terrain, such as the territory in and around PID, at certain times of the year areas of the watershed and potential measurement points are inaccessible due to weather and other factors.

- The final method involves making stage measurements using a pressure transducer. When asked what level of error constitutes "best available technology" in pressure transducer equipment, State Board staff stated that an error of ± 0.1 percent could be considered to meet the best available technology standard. The sections that follow explain why hourly measurements are not feasible using best available pressure transducer technology.

Flow Measurement

Any method of measurement that uses water level data falls into one of two basic categories: stage/storage measurements or stage/flow-rate measurements. The use of stage/flow-rate measurements is problematic in PID's case because it owns and operates open, on-stream storage reservoirs. When measurements of stream flow are made there are several inflows that are not captured including overland flows, subsurface inflows, direct precipitation, and flows in streams judged too small to be feasible to instrument. Subsurface outflows and evaporation are also difficult to estimate and subsurface flows are impossible to measure.

Approximately 20 percent of the runoff from PID's watershed drains directly to one or the other of its two reservoirs. Since this is all water that cannot be measured by stream gages (since it does not flow in a stream) any stream flow measurement will necessarily understate the volume of water delivered to the reservoirs by at least 20 percent. This means that the error due to overland flow alone exceeds 10 percent of the measured flow and thus does not provide the mandated accuracy. While it is possible to apply a correction factor to *estimate* the overland flow (and other non-streamflow contributions) into the reservoirs it will not be possible to *measure* the total inflow. Once this estimate is formed it will be impossible to know whether the resulting data provide the required ± 10 percent accuracy.

Finally, there is the difficulty of accurately measuring flows across a wide range of values. Inflows to PID's reservoirs typically range from 0.1 cfs to 1,000 cfs. We are not aware of any practical metering device that can measure water flows, with the required accuracy, for flows that vary across four orders of magnitude.

Storage Measurement

PID has pressure transducers installed at each of its two reservoirs and the SCADA facilities to log this data, although telemetry is problematic due to the rugged terrain and heavy tree cover. These pressure transducers measure the water level over a range of 40 feet of elevation. Calculations of reservoir inflow have been prepared by solving mass balance equations on storage and outflow. Even for a thirty day measurement interval these calculations have been hindered by the limited accuracy of storage volume measurements. This is particularly true when flows are relatively low, as is typical during the months immediately preceding the interval of significant precipitation. The new regulation now

requires that the measurement interval be reduced by a factor of 720, from monthly readings to hourly readings.

Considering 0.1 percent accuracy to represent best available technology in pressure transducer water level measurement, the magnitude of error for pressure transducers operating over the 40 foot measuring interval mentioned above is ± 0.04 feet. But for the moment let us assume that it is possible to reduce the measurement error to ± 0.01 feet, consistent with careful staff gage readings. Even this level of accuracy is incapable of producing inflow rate measurements consistently in the range of $\pm 10\%$ error at flow rates below about 135,000 gpm (300 cfs) at PID's Paradise Lake reservoir, as shall be discussed below.

Paradise Lake reservoir has a surface area of about 240 acres when the water level is near spillway elevation. If the accuracy of a reading of water level is ± 0.01 feet this equates to an accuracy in volume measurement of $\pm 782,000$ gallons. District staff has modeled reservoir performance under various typical flow conditions and analyzed the ability of best available technology equipment to measure these flows. The results reveal that hourly readings will often produce data values of no meaning whatsoever, with hundreds to even thousands of percent errors under various typical conditions.

For example, if the water level in the reservoir is falling at a rate of 0.0025 ft/hour during a time when rate of inflow is 725 gpm and 4,000 gpm is being withdrawn for use, the hourly inflow calculation will overstate the inflow by 3,275 gpm for three hours (450% error) while the total reservoir level change remains too small to be detectable by best available technology. Then in the fourth hour, when the change in reservoir level finally becomes large enough to be detected, the inflow will be vastly understated (by 9,812 gpm, or 1350% error). Under these flow conditions the reservoir inflow calculation produces negative stream inflows; a physical impossibility.

Smoothing

District staff discussed their concerns regarding accuracy with water board staff at one of the measurement and reporting information meetings. Water board staff acknowledged that reservoir water level data will move in a stepwise manner and suggested smoothing the data to avoid the problems involved in performing a calculation that is inherently unstable.

While this may seem like a solution to the problem it is actually an admission that hourly measurements are generally not meaningful. The smoothing process would make use of reservoir level data collected over a longer time frame and attempt to interpolate reservoir levels in the intervening time steps. The result is not an hourly measurement, but an estimate of reservoir levels and flow rates. There is no way to know that the actual water level was indeed the same as the value estimated for any particular time

step, and the flow rate will no longer represent the value for a particular interval, but it will instead represent an average flow that fits the longer time interval.

Furthermore, the error in measurement is not simply a matter of being able to determine readings to a sufficiently small resolution. There is also the potential for a certain amount of random error in the resulting level data. An error of 782,000 gallons in an hourly measurement equates to an error in flow rate of almost 19,000,000 gallons per day, or 13,000 gpm. An error of 782,000 gallons in a daily measurement equates to an error of only 540 gpm. Random error will give the impression that reservoir volume is changing, when in fact the indicated change is not occurring. Random measurement errors can occur on any time scale but they will increase the magnitude of error in flow calculations as the reporting time scale becomes shorter.

Smoothing Interval

Based on the limitation on accuracy of the measurement of reservoir volume and on the allowable error in flow measurement, it is possible to calculate the time interval needed for smoothing. First, the required accuracy of flow measurement, A_F , (dimensionless) is:

$$A_F = \frac{|Q_a - Q_m|}{Q_a}$$

where: Q_a = Actual rate of inflow, gpm

Q_m = Measured rate of inflow, gpm

Then, the measured rate of inflow differs from the actual rate of inflow by:

$$Q_m = Q_a \pm \frac{E_V}{T_S}$$

where: E_V = Volumetric error, gallons

T_S = Smoothing Interval, minutes

Rearranging, and combining the two equations gives:

$$A_F = \frac{|Q_a - Q_m|}{Q_a} = \frac{E_V}{T_S Q_a}$$

Then, solving for the smoothing interval, T_S :

$$T_S = \frac{E_V}{A_F Q_a}$$

Analyzing the Paradise Lake reservoir, for a required 10 percent accuracy of flow measurement, an accuracy of volume measurement of $\pm 782,000$ gallons and an actual flow rate of 1 cfs (449 gpm) the smoothing interval is 290 hours, that is, 12 days. At an inflow rate of 12 cfs the smoothing interval is 24 hours.

At a smoothing interval of 1 hour or less (that is to say, with no smoothing of hourly readings) the inflow rate must be 300 cfs or more. Inflows in this range occur extremely infrequently. This demonstrates that most hourly measurements cannot provide the required $\pm 10\%$ accuracy. Since the value of Q_a is unknown in practice, it will not be possible to use the analysis above to make a determination of the appropriate smoothing interval to be used for calculating Q_m to the required level of accuracy.

Considering the technical obstacles to getting meaningful measurements on an hourly time scale, PID urges water board staff to reconsider the requirement to collect and report hourly diversion data for reservoir operations. Installation of best available technology for measurement of water diversions, while expensive, makes sense because the calculation of diversions will be hindered without good measurements of key parameters. However, an attempt to extend the accuracy of the resulting data beyond its natural limits does not make sense and is unscientific. Such an effort will be costly, without consequent benefit, and the data obtained will be misleading at best.

Reporting

The amendment to Section 5103 requires: "Each statement shall be prepared on a form provided by the board." Presumably this means an internet form on the board's website, as is the current practice. Assuming that a diverter provides hourly measurements, in compliance with the minimum requirement, this will comprise 8,760 points in time per year. Since the regulation requires that the date, time, rate of direct diversion, rate of collection to storage and rate of withdrawal from storage be reported, this means that, at a minimum, water right holders will be required to report 43,800 numerical values to the state each year, for each water right they hold.

Currently, the board's data reporting protocol requires that each data point be keyed into individual cells in an internet form. PID has three water rights to report. At a rate of 12,000 keystrokes per hour, a preliminary estimate of the time necessary for PID to complete the data entry task, under these conditions, for one year's measurements is 511 hours, or three person-months of fulltime employment.

If the proposed expansion in reporting is to take place, a streamlined process for data entry needs to be provided. A means must be available for diverters to upload the measurement data to the water board without re-keying it. This could be accomplished through the use of an electronic form (for example, a spreadsheet form) or by using a standard file format to upload and automatically populate the fields of the form on the board's website.

Conclusion

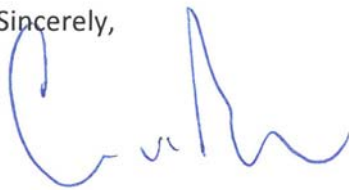
PID submits the following recommendations for implementation of the measurement and reporting regulations:

1. Remove the requirement for hourly measurement and reporting for any water rights holders for whom compliance with this requirement is impossible. This would include owners and operators of reservoir facilities where this requirement for reporting frequency, combined with the stated reporting accuracy of ± 10 percent, cannot be accomplished using best available technology.
2. Provide a streamlined method for reporting diversions data to the State. Eliminate the requirement for water rights holders to re-key data into the State's data collection system.

Thank you for giving consideration to our concerns regarding the development of the new measurement and reporting regulations. Paradise Irrigation District is committed to cooperating with the state water board to the extent possible. However, it would be unfortunate if the new regulations were implemented in a manner which makes compliance impossible.

If you have questions regarding these comments please contact the undersigned. Thank you.

Sincerely,



George Barber
General Manager, Paradise Irrigation District

Date: November 24, 2015

To: State Water Resources Control Board

John O'Hagan – john.o'hagan@waterboards.ca.gov

Paul Wells – paul.wells@waterboards.ca.gov

From: William A. Spence

P.O. Box 172

Altaville, CA 95221

E-mail: efischer1@hotmail.com

RE: SB88 Water Measuring Requirements

Dear Mr. O'Hagan & Mr. Wells:

I have four "stockponds". They are 40 acre feet, 36 acre feet, 23 acre feet and 18 acre feet; all are licensed and were designed by the Agricultural Stabilization and Conservation Service (forerunner of the Farm Service Agency).

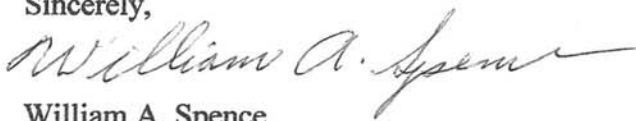
The ponds do not have drain pipes in them. When they are full they drain through a man-made spillway. On a normal year it takes about 3 to 4 inches of rainfall to fill them. Most of the water that goes into these ponds come from our own land and in many cases they will fill in less than a week. The ponds are on unnamed creeks—there are two or three small drainages that come into the ponds plus runoff from the hillsides. If a pond is less than 25 acre feet it will not furnish water throughout the summer. Until the current drought we had fish in the ponds—Bass, Catfish and Crape variety.

I go online once a year and make a report on each pond. I cannot see any sense in trying to put devices on these ponds to measure the amount of water coming in. From my perspective the amounts of water coming into these small ponds (less than 25 acre feet) is a "drop in the bucket" and would be impossible to measure as they are filled with runoff from multiple sources (as stated above).

Before making decisions that would cost the rancher a considerable amount of money with very little benefit you should come out on the ground and see the situation.

Thank you for considering these comments on possible water measuring requirements.

Sincerely,



William A. Spence

DWR-Measurement

From: DeBernardi, Weegee@DOC
Sent: Tuesday, November 24, 2015 2:43 PM
To: DWR-Measurement
Subject: RE: LPWD notice

To whom it may concern. I am a member of the La Porte Water Board and recently we received the notice below. The town water is supplied by two natural springs (Barnes & Pike) outside of town. Are we to comply with this notice? It is nearly impossible to report the use once a month in the winter because of snow. We would have to dig out to every meter in the community, some by the way have no paved roads so we have to use snowmobiles or snow cat. Any advice you can supply us would be greatly appreciated.

p.s. This is the third time I have tried to reach someone there.

Regards,

Louis "Weegee" DeBernardi
Associate Governmental Program Analyst
Department of Conservation
Division of Oil, Gas, and Geothermal Resources
801 K Street, MS 18-04
Sacramento, CA 95814-3530
(916) 323-1775

Every Californian should conserve water. Find out how at:



SaveOurWater.com · Drought.CA.gov

From: "Patrick Reilly" <patnkat@comcast.net>
To: "Jed" <jedsfabracation@digitalpath.net>, "Steve W" <sew6chico@gmail.com>, "steveb" <steveb@digitalpath.net>, "Weegee" <tweetee@comcast.net>
Cc: "La Porte Water District" <laportewater@yahoo.com>
Sent: Friday, November 6, 2015 8:57:33 AM
Subject: RE: LPWD notice

Attached is a copy of a report that the district has been submitting to the State Waterboard for years. But I am confused with the term "Diverter", we really don't divert water we are spring fed and collect. I tried to get an answer from a gentleman at the phone number listed in the letter and he would not answer my question but referred me to the web page listed in the letter. That is 97 pages of Codes, Sections, and Subsections. If this does pertain to us, it looks like we

may be installing meters for water collection and usage. The meters would have to be monitored, recorded, and reported to the state on a monthly basis.

Oh Weegee, do you think anyone would talk to you???

Depending on what you all think, I may take the letter to our water attorney and let them figure it out.

Scroll down to see the letter recently received.

Kathy

From: LPWD [<mailto:laportewater@yahoo.com>]
Sent: Friday, November 6, 2015 8:15 AM
To: Kathy Reilly <patnkat@comcast.net>
Subject: Fwd: LPWD notice

Sent from my iPhone

Begin forwarded message:

From: La Porte Water District <laportewater@yahoo.com>
Date: November 5, 2015 at 9:10:14 PM PST
To: Steve Waters <sew6chico@gmail.com>, Jed Howard
<jedsfabracation@digitalpath.net>, Weegee DeBernardi <tweetee@comcast.net>
Subject: Fw: Fw: LPWD notice
Reply-To: La Porte Water District <laportewater@yahoo.com>

Kathy was hoping the entire Board could take a look at the notice attached and the website mentioned in the notice

Angela

> ----- Forwarded Message -----
> From: Angela O'Rourke <amorfood@gmail.com>
> To: laportewater@yahoo.com
> Sent: Thursday, November 5, 2015 4:36 PM
> Subject: LPWD notice
>
>
>
>



State Water Resources Control Board

October 26, 2015

DEVELOPMENT OF WATER

Responsible Party:

La Porte Water District
P.O. Box 287
Yuba City, CA 95992

Diverter: La Porte Water District

The purpose of this letter is to provide information that will affect water right holders and communities. The law includes a new reporting requirement for water records each year. During drier than

reasonable beneficial use. The State Water Board and all water users shall have the right to reasonable beneficial use. The State Water Board and all water users shall have the right to reasonable beneficial use. The State Water Board and all water users shall have the right to reasonable beneficial use.

Improved measurement and reporting requirements. The State Water Board and all water users shall have the right to reasonable beneficial use. The State Water Board and all water users shall have the right to reasonable beneficial use. The State Water Board and all water users shall have the right to reasonable beneficial use.

- Increase understanding of water rights
- Improve water rights administration
- Provide more accurate data
- Improve forecasting of water availability
- Assure compliance with the Sustainable Groundwater Management Act
- Protect senior rights in accordance with the Sustainable Groundwater Management Act
- Provide efficient management of water resources

Information Meetings for the Emergency

The following meetings are scheduled for the State Water Board to meet its reporting requirements. The community is invited to attend these meetings.

DATE	
November 2, 2015 (Monday)	6:00
November 4, 2015 (Wednesday)	6:00

North Eastern California Water Association

P.O. Box 367, McArthur, CA 96056

NECWA's Mission is to protect and enhance water rights, water quality and riparian areas to the benefit of agriculture, the environment, recreation, and wildlife in the Northeastern California region

November 24, 2015

To: California State Water Resources Control Board

Sent via Email to: dwr-measurement@waterboards.ca.gov

Re: Senate Bill 88 and the Emergency Regulation for Measuring and Reporting the Diversion of Water.

From: North Eastern California Water Association

The North Eastern California Water Association (NECWA) appreciates the opportunity to comment on the proposed regulations to implement SB-88. NECWA represents landowners in the Upper Pit River Watershed with 80,723 acres currently enrolled in the Irrigated Lands Regulatory Program.

NECWA thanks you for holding a hearing in Redding, CA. Unfortunately, the meeting notice was received only a few days prior. Many of our water right holders within the Upper Pit River Watershed are unaware of SB-88 and its significant impacts.

... "Commencing January 1, 2016, Senate Bill 88 would require a person who diverts 10 acre-feet of water per year or more under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and a rate of withdrawal or release from storage. This bill would also require a person who diverts water under a registration, permit, or license to report to the state board, at least annually, and authorize the state board to adopt regulations requiring measurement and reporting of water diversions." ..

SWRCB needs to make sure that the proposed law is not forfeiting any water rights that are tied to the actual property right. In the last few years, our landowners have shown good stewardship and used less than their allotted water right. Conscientious and respectful should be awarded not penalized. Remember that California water is diverted in many ways. One size does not fit all.

SB-88 may require diverters to obtain a 1602 permit from California Department of Fish and Wildlife to install a measurement device. Additionally, if steelhead or salmon are present they may need to consult the National Marine Fisheries (and possibly obtain a permit) and may also need an Army Corps of Engineers permit. Permits can take years to obtain with substantial cost to the landowner. How does this fit into the regulation?

NECWA is an advocator for education. Bi-Annual workshops are held in conjunction with the local UC Cooperative Extension to reinforce the importance of water management. Workshops include water volume to crop yield, options and implementation of water flow measuring devices, downloading and summarizing transducer data, and changes in water regulations. NECWA landowners have proven to be conscientious and respectful stewards of the environment and the land.

January 1, 2016 does not allow those affected by the law to educate themselves or prepare for the proposed regulation. Numerous landowners in our watershed are not on-line and have multiple diversion points, exploiting the financial and technical difficulties that these water right holders will face.

SB-88 should be put on hold and revised into a workable piece of legislation that benefits the people of California.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ted deBraga". The signature is fluid and cursive, with a long, sweeping horizontal stroke at the end.

Ted deBraga
North Eastern California Water Association, President



Shasta County Farm Bureau

P.O. Box 907 ♦ Palo Cedro, CA 96073 ♦ (530)547-7170 ♦ E-mail: shastacountyfarm1@frontiernet.net

November 25, 2015

Via U.S. Mail and E-mail

California State Water Resources Control Board
P.O. Box 100
Sacramento, Ca 95812-0100

Att: Kathy Mrowka and Paul Wells

RE.: SB 88 Regulations

To Whom It May Concern:

The Shasta County Farm Bureau representing 670 farmers, ranchers, timberland owners, and supporting businesses offers the following comments on behalf of our members who will be affected by SB 88 and the implementing regulations:

TIME LINE: SB 88 was pushed through the legislature without benefit of the normal legislative hearing process as an emergency measure and was signed by the Governor on June 24, 2015. Yet the Notice for Development of Water Reporting Regulations was dated October 26, 2015, a full four months after signature. The Notice announced Information Meetings for the Emergency Regulations ranging from November 2 to November 9, 2015. For regulations scheduled to become effective January 1, 2016, this is simply an inadequate time frame for the regulated public to: 1) respond and offer comments on the regulations; and 2.) make preparations in the field for compliance especially with the winter period approaching. The prolonged lag time between the authorizing legislation and notice to the public is unacceptable and leaves those regulated persons in an impossible compliance position. The implementation and enforcement of the Regulations must account for the serious delay in notification.

BEST AVAILABLE TECHNOLOGIES: A one size fits all requirement for measurement and recording technology will not work for most of our members. In Shasta County, as in most other rural counties, many diversion sites are in remote locations with limited, often walk-in only, access. Most of these sites represent small diversion volumes although they are over the 10 acre foot threshold. These sites are far removed from commercial electrical and telephone service. Even cellular coverage is not available at many sites. Battery or solar powered devices, even if affordable, are not a practical solution as they would be exposed to theft, vandalism, damage from large animals, and loss due to weather including flooding. Also consider that the diversion point of many water right holders are not on his/her the property. Many of these diversions and the served ditch systems are over 100 years old and the rights for use are prescriptive. An "improvement" at a diversion point to accommodate an off stream device could likely be beyond the prescriptive right and as such create a civil problem between the diverter and the landowner. The regulations concerning an appropriate measuring device must be flexible enough to account for the various conditions that exist at any given diversion.

EQUIPMENT RELIABILITY, DATA MANAGEMENT & COSTS: There is also equipment failure and data management to consider. Downloading and summarizing transducer data to meet the monthly



Shasta County Farm Bureau

P.O. Box 907 ♦ Palo Cedro, CA 96073 ♦ (530)547-7170 ♦ E-mail: shastacountyfarm1@frontiernet.net

reporting requirement is a herculean task. To determine flow, the hourly elevation measurement data must be inserted (in the appropriate place) into the equation that is specific for the diversion being measured. Then the flow data must be summarized to meet SWRCB reporting requirements. While the cost of the transducers is estimated at about \$1,500, this does not include a laptop or the time required to manage and summarize data. Nor does it include the cost and effort associated the installation of a measurement weir.

Thank you for your attention to these matters.

Sincerely,
Shasta County Farm Bureau

Mark Lathrop
President

CC:

John O'Hagan

Paul Wenger

Danny Merkley

Assemblyman Dahle

Senator Nelson

Senator Gaines

Shasta County Board of Supervisors



November 25 2015

By U.S. Mail and E-mail
(dwr-measurement@waterboards.ca.gov)

Ms. Katherine Mrowka
Division of Water Rights, Enforcement Section
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Re: Comments on Senate Bill 88 Emergency Regulation Recommendations

Dear Ms. Mrowka:

This letter presents Yuba County Water Agency's (YCWA) comments on the recommendations by State Water Resources Control Board (SWRCB) staff for emergency regulations to implement Senate Bill 88 (SB 88).

YCWA strongly supports complete, accurate reporting for water diversions. We appreciate the recommendations by SWRCB staff that would promote complete and accurate reporting, as well as the stakeholder outreach efforts being conducted by SWRCB staff.

Concept 1 concerns the deadline for annual submission of diversion reports. SWRCB staff recommend that, for water diverted in 2016 and after, the annual water use reports for permits, licenses, stock ponds and registrations must be filed prior to April 1. SWRCB staff recommend that annual use reports for statements of diversion must be filed prior to July 1.

During the stakeholder workshop on November 9, 2015, you stated that the reason SWRCB staff were recommending the April 1 deadline is that, because SB 88 will require many water right holders to submit annual reports for the first time, staff believe the SWRCB's computer network would be overloaded if the deadline for all reports was July 1. Therefore, the proposed April 1 deadline would stagger the reporting deadlines and reduce the load on the SWRCB's computer network.

It would be very difficult for holders of water rights for complex water projects like YCWA's to submit annual diversion numbers by the proposed April 1 deadline. For this reason, YCWA requests that SWRCB staff revise its recommendation for Concept 1 as follows:

For water diverted in 2016 and after, the annual water use reports for permits, licenses, stock ponds and registrations should be filed prior to June 15 of the year following the diversion. Annual use reports for statements shall be filed prior to July 1 of the year following the diversion, as specified by statute.

This revised recommendation would recognize SWRCB staff's belief that staggered reporting deadlines for permits and licenses and statements of diversion will be needed once SB

88 takes effect. It also would reduce the risk that, for holders of water rights for complex projects like YCWA's, the proposed April 1 reporting deadline would not be achievable.

Thank you for the opportunity to comment on SWRCB staff's recommendations. Please contact me or Alan Lilly, Bartkiewicz, Kronick & Shanahan, at (916) 446-4254 should you have questions.

Very truly yours,



Curt Aikens
General Manager

cc: Alan Lilly (by email)

7021\Water Rights\L111815ajr

DWR-Measurement

From: coz@1access.net
Sent: Sunday, November 29, 2015 8:28 PM
To: DWR-Measurement
Subject: State Water Board - Measurement Regulation - Public Comment

State Water Board - Measurement Regulation - Public Comment

Submitted To: dwr-measurement@waterboards.ca.gov

11/11/2015

As we are unable to attend meetings several hundred miles away, the following requested public comments are being submitted through the Water Board website referenced email address.

With the passage of Senate Bill 88, the escalation of requirement, confiscation, crime, authority, and punishment, imposed upon vested right holders continues unabated. Engineered under a water 'crisis' in no small part, intentionally or incompetently bureaucratically exacerbated*, the impositions which bypass public protections through 'emergency' action unsurprisingly make permanent regulations which constitute a 'taking' of public and private vested interests without compensation, accountability, or sufficient stated benefit. Therefore, whether claimed to be a prejudicial tax without required 2/3rds vote, or a condemnation without compensation, its application is highly questionable both legally and morally. *(In only two out of many 'flushes' occurring in a 'crisis' water year, the Stanislaus for 6 hypothetical fish and the Trinity for a 'prescribed' flush with no quantified significant proven need or benefit, enough water was wasted to the ocean to accommodate well over 5,000,000 people for over a year, in 'pulses' exceeding 7,000% of the historically known flows for that period in a 'normal' water year.)

In carrying out the bureaucratic resource appropriation aspects of Senate Bill 88, DWR steps upon prior promise that the previously 'approved' registration program would only be used for informational purpose, now incrementing usage reporting 'crime' and 'requirement' while inferring the 'right' to dictate 'Board determined' allocation even to pre-1914 water rights. Even if the courts would sustain SB 88 regulatory interpreted 'taking' of private property, use, and value, there appears to be no exemption from a requirement for condemnation and compensation for the damages and costs consequent to those edicts. Many even primary vested water right owners will be economically destroyed through this assumptive taking, being overcome by compounding imposed costs, heuristic demands, and resource insecurity. With the DWR potentially unilaterally 'determining' the 'appropriate' diversion measurement method based upon 'best available technologies' emphasizing higher cost options when historically acceptable engineering practices (output table/head/kw usage) would prove more than adequate in the vast majority of cases, DWR inappropriately escalates even greater uncompensated cost upon the affected. This issue was addressed in depth with public comment in the previous mandated 'registration' program finding such methods acceptable, and the technological rationales have certainly not changed. Even in the proposed 'exceptions' still allowing conventionally calculated methods, requirements for periodic 'retest' or 'calibration' places extraordinary cost for outputs in which pumped volumes gradually decrease through long term wear and tear but which would still be more than adequate for informational purposes. The only apparent explanation for dramatically increased burden of uncompensated cost and threat placed upon vested owners would be the intent for bureaucratic usurpation, reallocation, and attrition of those private rights previously protected under judicial process. If this were not the case, any acknowledged 'taking' of private property and vested interest for claimed public good 'informational' purpose would and should be concomitant with compensation for incurred cost and loss.

Sincerely,

Siskiyou County Water User's Association

Submitted By: Rex Cozzalio

December 3, 2015

Susan F. Petrovich
Attorney at Law
805.882.1405 tel
805.965.4333 fax
SPetrovich@bhfs.com

VIA EMAIL TO DWR-MEASUREMENT@WATERBOARDS.CA.GOV

State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

RE: Proposed Emergency Regulation for Measuring and Reporting the Diversion of Water

Dear Honorable Board Members:

Brownstein Hyatt Farber Schreck represents a wide range of clients who divert surface water. We write this letter on behalf of agricultural clients whose livelihoods rely upon the use of rural surface water diversions and groundwater extractions.

Farming and ranching is always economically challenging. Tight profit margins and hard physical labor, combined with the vagaries of the market, competition from foreign imports, and rising costs of labor and equipment place on-going stresses on farmers' and ranchers' revenues. The prolonged drought is just one more source of stress and economic hardship. The time and expense involved in compliance with expanded, more frequent and more intensive reporting regulations could be the final straw for many cattle ranchers who rely on stock ponds.

For that reason, we concur with the recommendation that smaller diverters not be subject to the proposed new emergency regulations. Our clients suggest that the exemption, now recommended to be 10 AFY, be increased to 20 AFY cumulatively to include all surface water diversions on a parcel, regardless of size. Cattle operators use more than one stock pond so a 10-acre exemption simply isn't enough to avoid imposing overly-burdensome reporting requirements on property owners who cumulatively divert relatively small amounts of water.

We urge you, therefore, to increase the exemption from the new emergency regulation to 20 AFY.

1020 State Street
Santa Barbara, CA 93101-2711
main 805.963.7000

041199\0005\14077323.1

If you have any questions or require further information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, reading "Susan F. Petrovich". The signature is written in dark ink and is positioned above the printed name.

Susan F. Petrovich