



Shasta County

BOARD OF SUPERVISORS

1450 Court Street, Suite 308B
Redding, California 96001-1673
(530) 225-5557
(800) 479-8009
(530) 225-5189-FAX

(12/17/15) Public Workshop
Emergency Reg for Measuring & Reporting Diversions
Deadline: 12/17/15 by 12:00 noon



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

Chair Felicia Marcus
November 17, 2015
Page 2 of 2

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