



September 15, 2014



Delivered via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Ms. Jeanne Townsend, Clerk of the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Re: September 24, 2014, Public Workshop on Central and Southern Delta  
Water Availability and Use

Dear Ms. Townsend:

The State Water Contractors (“SWC”) submit the following comments regarding the September 24, 2014 workshop pursuant to the notice dated September 5, 2014.

On July 23, 2014, the Department of Water Resources (“DWR”) and the Bureau of Reclamation (“Reclamation”) sent a letter requesting the State Water Resources Control Board (“Water Board”) obtain additional water right information from south and central Delta pre-1914 and riparian diverters under section 879 of the emergency regulations. The request was made pursuant to the Water Board’s emergency regulations even though the Water Board has existing investigatory powers to obtain this information.

The SWC support DWR and Reclamation’s request because the Water Board indicated that it was unwilling to extend curtailments under the emergency regulations against pre-1914 and riparian water right holders because it had insufficient information. The SWC support efforts by the Water Board to obtain the information it believes is needed to uphold the water rights system and protect stored water. The information the Water Board does not have relates to the details and supporting documentation for riparian and pre-1914 water rights. The SWC and Westlands submitted a sample information request form to the Water Board outlining the information the Water Board should be seeking from central and south Delta pre-1914 and riparian water right holders. A copy is attached for your convenience. The original intent behind using the emergency regulations was to obtain the information the Water Board indicated it needed as quickly as possible. The SWC believe time is of the essence because water storage levels are not likely to be restored next year, even if it is a wet year.

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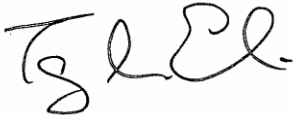
**General Manager**  
Terry Erlewine

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In response to the July 23<sup>rd</sup> letter from DWR and Reclamation, several Delta landowners and water districts submitted letters raising a number of defenses against possible enforcement actions. The SWC believe the appropriate time for dealing with these defenses (partly referenced in Items 1 and 2 in the workshop notice) is when the Water Board pursues enforcement against specific water right holders or classes of water rights holders, and/or when a complaint is filed. It is not an efficient use of Water Board resources to try to scope potential defenses outside of an enforcement action. Once enforcement is pursued, the appropriate parties will identify for the Water Board the defenses that are most relevant to their rights, and the Water Board will have the ability to enforce against specific water right holders. Any such proceeding should be a hearing with the opportunity to present evidence and cross examine witnesses.

Thank you for your consideration. Should you have any questions please contact Terry Erlewine at (916) 447-7357.

Sincerely,

A handwritten signature in black ink, appearing to read 'TLE', with a stylized flourish at the end.

Terry L. Erlewine  
General Manager

Attachment

State Water Resources Control Board  
 Supplemental Information in Support of Investigation into Water Rights and Use

Diverter: \_\_\_\_\_

Parcel Number(s): \_\_\_\_\_

Total Parcel Acreage: \_\_\_\_\_

**Check the box(es) which describe the type of claim(s) under which you are diverting water. Provide the basis for each claim asserted, as well as any supporting documentation.**

1.  I claim a Riparian right.

a. Identify all relevant information and/or documentation provided in support of your claimed Riparian right:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

b. In support of my claimed Riparian right, I have attached information and/or documentation to demonstrate that:

The land on which water is used is riparian to the water course from which water is diverted.

Or

The land on which water is used is no longer riparian to the water course from which water is diverted but there was an intent at the time of severance to maintain a riparian right for the land.

The date the land was severed from the original riparian land was (day/month/year): \_\_\_/\_\_\_/\_\_\_\_.

c. State the purpose and amount of use under your claimed Riparian right (e.g. irrigation of 600 acres, domestic supply for 4 persons):

\_\_\_\_\_

d. Under my claimed Riparian right, I have diverted the following amounts of water in 2014:

MONTH	AVERAGE MONTHLY RATE OF DIVERSION (enter cfs/acre-feet)	TOTAL MONTHLY AMOUNT DIRECTLY DIVERTED OR COLLECTED TO STORAGE (in acre-feet)
January		
February		
March		
April		
May		
June		
July		

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August		
September		
October		
November		
December		
Total		

2.  I claim a Pre-1914 Appropriative right.
- a. Identify all relevant information and/or documentation provided in support of your claimed Pre-1914 Appropriative right:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- b. In support of my claimed Pre-1914 Appropriative right, I have attached information and/or documentation to demonstrate:

- Water was appropriated prior to 1914
- For the pre-1914 appropriation:
- Year of first use: \_\_\_\_\_
  - Quantity of water: \_\_\_\_\_
  - Period of use: \_\_\_\_\_
  - Point of diversion: \_\_\_\_\_
  - Place of use: \_\_\_\_\_
  - Purpose of use: \_\_\_\_\_

And

- For appropriation since 1914 under my claimed Pre-1914 Appropriative right, I have attached information and/or documentation to demonstrate:

- Point of diversion: \_\_\_\_\_
- I own the land at the point of diversion
  - I do not own the land at the point of diversion. Owner of the land at the point of diversion: \_\_\_\_\_
- Place of use: \_\_\_\_\_

- c. State the purpose and amount of use under your claimed Pre-1914 Appropriative right (e.g. irrigation of 600 acres, domestic supply for 4 persons, etc.):

\_\_\_\_\_.

DRAFT DOCUMENT

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- d. Under my claimed Pre-1914 Appropriative right, I have diverted the following amounts of water in 2014:

MONTH	AVERAGE MONTHLY RATE OF DIVERSION (enter cfs/acre-feet)	TOTAL MONTHLY AMOUNT DIRECTLY DIVERTED OR COLLECTED TO STORAGE (in acre-feet)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
Total		

3.  I claim a right by Court Decree. In support of my claim, I have provided a copy of the decree.

4.  I have a pending Appropriative Application with the State Water Resources Control Board.

The Application Number is: \_\_\_\_\_.

A copy of the Application  is  is not attached.

5.  Other. I claim a right to divert water under a claim of right not otherwise provided for on this form.

a. The right under which I claim to divert (e.g. pueblo right, transfer agreement, right of an irrigation company, etc.): \_\_\_\_\_.

b. Identify all relevant information and/or documentation provided in support of your claimed Other right:

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DRAFT DOCUMENT

State Water Resources Control Board  
Supplemental Information in Support of Investigation into Water Rights and Use

I declare the foregoing and any supporting documentation to be true and accurate to the best of my knowledge, under penalty of perjury.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_