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CIVIL ENGINEERS AND LAND SURVEYORS

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June 29, 2011



State Water Resources Control Board
c/o Jeanine Townsend, Clerk to the Board
P.O. Box 100
Sacramento, CA 95812

Re: Comment Letter – Water Measurement

Dear Ms. Townsend,

We are submitting this comment letter to the State Water Resources Control Board (Water Board) on behalf of several of Kjeldsen, Sinnock & Neudeck Inc.'s (KSN) clients to request review and clarification on the flow measurement and recording requirements for Supplemental Statements of Water Diversion and Use. We understand according to Part 5.1 of Division 2 of the California Water Code (WC) that measurement devices must be installed on all surface water diversions diverting water on or after January 1, 2012, except for certain diversions as specified in WC Section 5101(a) through (g). We also understand that such measurement devices must use "best available technologies" and "best professional practices" as defined in this Part 5.1, except where implementation of those technologies or practices are not "locally cost effective". Pursuant to WC Section 5104(a), we understand that the information gathered from those devices is to be the basis of Supplemental Statements of Water Diversion and Use, including reporting of the "quantity of water diverted and the rate of diversion by months..."

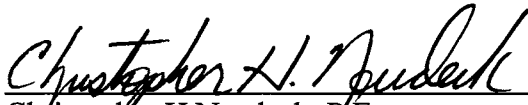
As we are assisting surface water diverters in the process of modifying their diversion facilities to install flow measurement devices consistent with the requirements of the Water Code, we are requesting a review and clarification by the Water Board on the following requirements as they apply to diversions under claims of Riparian or Pre-1914 rights:

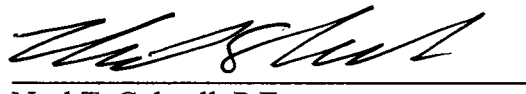
1. Section 5104(a) requires "supplemental statements" to contain the rate of diversion by month, however the latest versions of the forms developed by the Water Board (Question 3 of the enclosed form) specifically request "maximum rate of diversion". Can the Water Board please clarify this request's consistency with the Water Code requirement and the allowance in Section 920(c)(3) of Title 23 to report such maximum rate of diversion "if available"? If this specific monitoring data is prescribed, as it has the potential to substantially limit the alternative flow measurement devices that can be used and increases the cost per diversion for monitoring and recording equipment and the time to collect and manage data for reporting. We believe that it is reasonable and consistent with historic Water Board practices, the Water Code, and Title 23, where not limited by permit, license, or other Water Board Order, to request reporting of the average monthly rate of diversion for the rate of diversion by month for diversions under Riparian or Pre-1914 claims.

2. The Notice of Public Workshop for Water Diversion Measurement mentions that WC Section 5100 does not include a definition of "locally cost effective" and references a definition found in WC Section 10608.12(k). This mention appears to suggest that WC Section 10608.12(k) could be applicable to persons diverting surface not meeting the definition of an "Agricultural Water Supplier" of the associated WC Section 10608.12(a). While we anticipate that others will present arguments regarding the legal merits of applying the provisions WC Section 10608 et. seq. to Supplemental Statements of Water Use and Diversion, we believe that there are fundamental differences in what may be locally cost effective for an "Agricultural Water Supplier" providing irrigation water to 10,000 acres or more and an individual small diversion. Therefore, the documentation to be provided demonstrating whether implementing the best available technologies or practices is locally cost effective must consider the scale of the diversion and be evaluated in that context.

We would be happy to meet with staff to discuss these questions and this request for clarification. We can be reached at (209) 946-0268.

Sincerely,
KJELDEN, SINNOCK & NEUDECK, INC.


Christopher H Neudeck, P.E.


Neal T. Colwell, P.E.

w/enclosures

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SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2009

Statement Number Primary Owner

Summary Information

Below is a summary of the information related to the selected statement number. Please review for accuracy.

OWNER(S) OF RECORD

PRIMARY OWNER	ADDRESS	PHONE
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AGENT	ADDRESS	PHONE
	No Agent	

SOURCE NAME	TRIBUTARY TO	COUNTY	DIVERSION WITHIN
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NAME OF DIVERSION WORKS	ASSESSOR PARCEL NUMBER OF THE DIVERSION SITE
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DEADLINE
This report is due by July 1, 2010.

The primary owner information shown above is correct Yes No

The agent information shown above is correct Yes No

If the owner or agent information shown above is wrong or missing, click here to correct. Otherwise, please use the continue button to begin completing the online Supplemental Statement of Water Diversion and Use.



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SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2009

Statement Number Primary Owner

Please answer all the questions. Scroll down to the bottom and select the continue button to move to the next page.

Part 1 of 5

PLEASE READ GENERAL INFORMATION

1. WATER IS USED UNDER (select all that apply)

- Riparian claim
 Pre-1914 claim
 Pueblo
 Court Decree No.:
 Other (explain):

2. YEAR OF FIRST USE

If this field is blank, please enter the first year water was diverted from the point of diversion.

1901

3. MAXIMUM RATE OF DIVERSION FOR EACH MONTH (Required by Water Code section 5104)

The rate of diversion of water for each month entered in the table below is shown in units of:

- Gallons per minute (gpm)
 Gallons per day (gpd)
 Cubic feet per second (cfs)

Please enter numerals only. For months where no water was diverted, enter 0.

January

February

March

April

May

June

July

August

September

October

November

December

Back

Continue

Save Without Submitting



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SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2009

Statement Number Primary Owner

Part 2 of 5

4. AMOUNT OF WATER DIVERTED AND USED

Note: Please report only the amounts diverted and used under this supplemental statement.

4a. The quantity of water used each month and entered in the table below is shown in units of:

Gallons Million Gallons (MG)* Acre-feet (AF)

4b. Check this box if the amount of water used is the same as the amount diverted. Normally, the amount of water used is less than the amount diverted because of conveyance losses in channels, return flows to a stream, difference in water collected in a reservoir vs. water withdrawn from the reservoir.

Do not check this box if your use of water is non-consumptive. As stated below, you must enter "0" in the Amount Used if you did not use water.

4c. Please enter numerals only. For months where no water was used, enter 0.

* An example of reporting in millions of gallons would be 10.5 for 10,500,000

	Amount directly diverted or collected to storage	Amount used
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
Total		

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SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2009

Statement Number Primary Owner

Part 3 of 5

5. PURPOSE OF USE

Irrigation (Specify number of acres irrigated)

Stockwatering (Specify number and type of animals)

Domestic (Specify number of persons served, lawn/garden area, etc.)

Other (specify)

6. CHANGES IN METHOD OF DIVERSION

Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

(Note: Input is limited to 4000 characters.)

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Continue

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SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2009

Statement Number Primary Owner

Part 4 of 5

Please answer only those questions below which are applicable to your project.

7. CONSERVATION OF WATER

a. Are you now employing water conservation efforts?

Yes No

If YES, please describe any water conservation efforts you have initiated. (Note: Input is limited to 4000 characters.)

b. If you are claiming credit for water conservation under section 1011 of the Water Code for your claimed pre-1914 appropriative right, please show the amount of water conserved (specify the amount in acre-feet or million gallons):

I have data to support the above surface water use reductions due to conservation efforts.

Yes No

8. WATER QUALITY AND WASTEWATER RECLAMATION

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?

Yes No

b. If you are claiming credit due to the substitution of reclaimed water, desalinated water or polluted water in lieu of a claimed pre-1914 appropriative right under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of substitute water supply used:

Amount of reduced diversion:

State the type of substitute water supply:

Amount of substitute water supply used:

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SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2009

Statement Number Primary Owner

Part 5 of 5

Please provide the contact information of the person completing this form:

Fields marked with * are required.

First Name*

Last Name*

Phone Number

Email

I understand that it may be necessary to document the water savings claimed in Part 4, if credit under Water Code sections 1010 and 1011 is sought in the future.

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief:

I read the above and agree.*

You will be able to print a copy of a report you have submitted or saved without submitting from the next screen.

Note: Once you submit the report, you cannot make changes to the report.

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Continue

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