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Mr. Paul Wells
State Water Resource Control Board; Division of Water Rights
100 I Street, 14th Floor / P.O. Box 2000
Sacramento, CA 95812
(transmitted via email to paul.wells@waterboards.ca.gov)

SUBJECT: Draft Emergency Regulation for Measuring and Reporting on the Diversion of Water

Dear Mr. Wells,

The Northern California Power Agency (NCPA) appreciates the opportunity to submit comments on the State Water Resource Control Board's (SWRCB's) draft emergency regulation to implement Senate Bill 88. We recognize the SWRCB's need for water diversion records; however, we believe that some of the language proposed in the draft emergency regulation will be overly burdensome and in some cases redundant in intent (and possibly conflicting in application) to other existing regulatory reporting requirements.

We strongly recommend that provision be made for the 12-month reporting period to be based on a water year (October 1 - September 30) rather than a calendar year. All of our water diversion sites are subject to *Stream Gauging and Flow Monitoring Plans* which were developed as required by the SWRCB Water Quality Certification for the project, and developed in coordination with the SWRCB, the California Department of Fish and Wildlife, the Federal Energy Regulatory Commission, the US Forest Service, and the US Geological Service (USGS). This data is aggregated and reported on a water year rather than a calendar year basis for many reasons, including:

- a. USGS standards which define the water year.
- b. Inaccessibility of many of the high Sierra sites during winter and early spring.
- c. Commercial "water accounting software" such as Hydstra, Wiski, and Aquarius which are all designed and configured to report based on a October – September water year.
- d. California's mediteranean climate with a well defined "wet" season which is interrupted by calendar year reporting.

Based on accessibility constraints, reporting within three months of the close of the twelve month water year (October 1 – September 30) would be feasible; however, reporting within three months of the calendar year per Section 929(b) would not always be feasible. Submitting on a calendar year basis is especially problematic for the months of October – December, which have not been through the USGS data validation and quality control process required for USGS

acceptance and publishing on the USGS website. “Premature” submittal to the SWRCB results in a strong probability of subsequent revision and/or the possibility of having conflicting flow records in the public domain. We are already seeing this happen for October-December data submitted in response to the SWRCB’s calendar year submittal requirements for Statements of Water Diversion and Use.

The requirement to publish data on a website should be required only in instances where the data is not already in the public domain. For instance, FERC Cooperators such as NCPA coordinate closely with (and under oversight by) the USGS, and this data is publicly accessible on the USGS website. We believe that granting a certain amount of flexibility as to the location and timing of publishing data (so as to comply with USGS schedules) would be prudent.

Also, for non-consumptive uses such as hydroelectric generation, where all flow is returned to the same watershed without harm to downstream diverters, it would appear that there is negligible benefit from even requiring measuring and reporting to the SWRCB. In these circumstances, a complete exemption may be appropriate.

Please do not hesitate to contact our office at (209) 738-1387 if you have any question or would like further discussion.

Sincerely,
NORTHERN CALIFORNIA POWER AGENCY



Randy Bowersox, P.E.
Manager, Hydroelectric Facilities