

*Mendocino County Russian River Flood Control &
Water Conservation Improvement District*

STAFF REPORT

To: Board of Trustees
From: E. Salomone, General Manager
Meeting: Monday, January 9, 2023
RE: Agenda Item 6: Senate Bill 88 Alternative Compliance Plan

The Strategic Plan relevant priorities are (1) **Security** through improved data collection to support river and reservoir operations and expanded water sources; (2) **Use** through improving data collection to support maximum beneficial use of water; and (3) **Administration** through effective systems and capital asset management.

Background

In 2015, Senate Bill 88 (SB88) was signed, which includes measurement and reporting requirements for surface water right diversions. The State Water Resources Control Board (SWRCB) adopted regulations in 2016 to implement the new law. The following year, the District adopted Ordinance #17-01 establishing regulations and rules for meter installation.

Discussion

The District has 86 licensed points of diversion on License 13898 and has found strict compliance with SB88 challenging and costly. The SWRCB allows a water right holder to request an alternative compliance approach when strict compliance is not feasible, would be unreasonably expensive, would unreasonably affect public trust resources, or would result in the waste or unreasonable use of water.

Balance Hydrologics has prepared an alternative compliance plan which is laid out in the **attached** letter. The formal request will be submitted through an online portal if/when approved by the District Board.

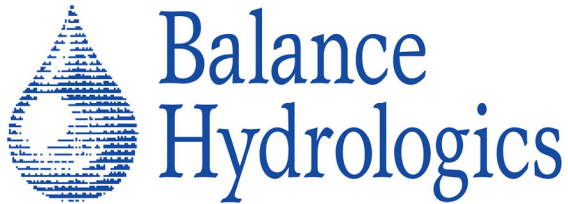
Of note are the retail water suppliers that, to the District's knowledge, do not currently have SB88 compliant meters. Meters identified in Ordinance #17-01 may not be the most ideal model for the water retailers. Coordination with the water retailers will be necessary to establish an implementation plan for Board approval.

Recommended Board Action:

- Move to approve GM Salomone to submit the SB88 Alternative Compliance Plan as outlined in the Balance Hydrologics letter;
and
- Direct GM and Board Advisor for Engineering to bring all retailers and other customers into compliance with the Alternative Compliance Plan.

Attachments and links to Additional Information:

1. Balance Hydrologics letter on SB88 Alternative Compliance Plan.
2. State Water Resources Control Board SB88 webpage:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_measurement.html
3. SWRCB SB88 Fact Sheet:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_measurement.html
4. District Ordinance #17-01 is available on the District website:
<https://rrfc.specialdistrict.org/board-meetings>



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January 6, 2023

Elizabeth Salomone
Russian River Flood Control & Water Conservation Improvement District
304 N. State Street, #2
Ukiah, CA 95482

RE: SB88 Alternative Compliance Plan

Dear Elizabeth Salomone:

You have asked Balance Hydrologics to assist you in reviewing the Senate Bill 88 (SB88) monitoring and reporting requirements for surface water diversions for water rights holders in California, and to develop the framework for an Alternative Compliance Plan to satisfy these requirements within the complexity of your diversion arrangements.

Background

SB88 was signed in June 2015, authorizing the State Water Board to require water rights holders of greater than 10 acre-feet per year (afy) to measure and report surface-water diversion amounts. The State Water Resources Control Board (SWRCB) approved requirements for diversion measurement in March 2016 (SWRCB Resolution No. 2016-005), with compliance for large diverters required in 2016, mid-size diverters in 2017, and small diverters in 2018.

The Mendocino County Russian River Flood Control & Water Conservation Improvement District ('District') manages Water Right License 13898, with a maximum total diversion of 7,940 afy (28 cfs maximum, in aggregate). There are 86 licensed points of diversion ('POD') under this water right, contracted to many different account holders, with individual contract amounts ranging from 4 to 1,171 afy (some of these have multiple PODs under a single account). Eighteen of the 86 points of diversion are currently inactive and/or contracts have expired. Some users have additional water rights tied to the same POD that are managed independent of the District's apportioned water right, and there is not a feasible way to separately measure diversions under the different water rights. Some users divert from multiple PODs, and totals are reported in aggregate.

The District has established a protocol (Ordinance #17-01)¹ for getting compliant meters installed for their customers, which has been partially implemented. Currently, 41 of the PODs have a District-supplied compliant datalogging meter installed. An additional 7 of the PODs have meters that have been

¹ 'An ordinance establishing regulations and rules for meter installation by the Mendocino County Russian River Flood Control and Water Conservation Improvement District'

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installed, but those meters are either non-compliant or the District has not yet verified that they are compliant devices. In addition, given the broad distribution of the District's points of diversion ('PODs') and the variability in contracted diversion amounts with individual users (as outlined further below), strict compliance with the SB88 monitoring provisions is not feasible at all locations. As such, the sections below outline a proposed Alternative Compliance Plan ('ACP'), to meet the goals of SB88 without overburdening the District or its Customers.

Monitoring requirements

SWRCB Resolution No. 2016-005 outlines the monitoring requirements for diverters. In aggregate, the 7,940 afy under the license 13898 held by the District falls well within the 'large diverter' category, requiring the strictest (most frequent and highest accuracy) monitoring requirements. These would include installation of approved devices that would record hourly diversion amounts with a 10% accuracy. However, due to the number and distributed nature of the District's PODs, monitoring each POD up to these standards is not practical, and in some cases infeasible.

Proposed Alternative Compliance Plan

Given the above conditions, we propose the following Alternative Compliance Plan for monitoring of the District's Water Right License **13898**:

- **1000 afy and above – Hourly:** For individual PODs with contracted amounts greater than 1000 afy (or customers with combined diversions with meter-able infrastructure that totals more than 1000 afy); fully compliant water meters are required. In these cases, meters would record at least hourly diversion amounts, and have 10% accuracy.
- **100 afy to 1,000 afy – Daily:** For individual PODs with contracted amounts greater than 100 afy, and less than 1,000 afy (or customers with combined diversions with meter-able infrastructure that totals between 100 and 1000 afy); fully compliant water meters are required. In these cases, meters would record at least daily diversion amounts, and 10% accuracy.
- **Up to 100 afy – Monthly:** For individual PODs with contracted amounts less than 100 afy, including those with amounts less than 10 afy (or customers with combined diversions with meter-able infrastructure that totals less than 100 afy), monthly manual reads are required, to 15% accuracy². If Customers hold multiple water rights at a specific POD (regardless of whether those rights are through the District), then the *total* diversion amount of all water diverted must be less than 100 afy to qualify for this alternative compliance provision. Otherwise, a fully compliant meter must be installed, as above.
- In all cases, Customers with a documented history (at least five years) of diverting significantly less than their contracted amount, may use that record to determine which ACP provision applies, assuming they do not have plans to increase their diversion above a given threshold in the next three years. If higher diversions are planned in the future, the Customer must be compliant with the proper ACP provision prior to exceeding the threshold. As with other provisions, *all* water

² The District provides monthly readings. Weekly readings, as would typically be required for SB88 compliance is not feasible due to the number of PODs to be monitored, and the limited resources of the District.

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rights (regardless of whether through District) need to be considered when determining which ACP monitoring standards apply.

Next steps

The District cannot move forward to submit the ACP described above until all users are in compliance with the plan.

- Customers with contracted amounts greater 100 afy (either solely through the District or when combined with other held water rights) must have a compliant meter installed, or have consistent documented prior diversions of less than 100 afy, as described above. The following landowners may be currently out of compliance with the proposed ACP and either need to have a meter installed, or need to provide additional documentation on the metering status of the diversion(s) or that the 100+ afy provision does not apply (in cases where multiple PODs are listed, a single meter could be installed that monitors the aggregate from all diversions, assuming that infrastructure is feasibly configured):
 - Millview CWD (POD 5)
 - Redwood Valley County Water District (POD 1)
 - River Bend Vineyards (POD 53)
 - River Estates Mutual Water Company (PODs 49, 51)
 - Rogina Water (POD 22)
 - Rosetti Brothers (PODs 72, 76, 81)
 - Willow County Water District (PODs 30, 37, 38)
- Customers with District contracts of less than 100 afy under license 13898 (or documented consistent prior diversions of less than 100 afy) will require documentation that the sum of ALL their diversions at the POD are less than 100 afy, if they intend to comply with the ACP provision for monthly reads. Otherwise, a District compliant meter is required.
- All Customers must sign the ACP form, or a similar “Opt-in” form. Record of these signatures should be maintained at the District offices.
- Compliance with ACP, as outlined above, should be implemented by the end of July, 2023. The current compliance status and planned implementation schedule for resolving the remaining compliance issues will be included as part of the ACP submittal process.

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Closing

Please let us know if you have any questions about the proposed ACP outlined above, or if additional clarification is needed. We tried to describe the various provisions as succinctly as possible but understand that there may be other considerations to take into account that we are not aware of.

Sincerely,

BALANCE HYDROLOGICS, Inc.

A handwritten signature in blue ink that reads "Scott Brown". The signature is written in a cursive, slightly slanted style.

Scott Brown, P.G.
Principal Geologist/Hydrologist