

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

STAFF REPORT

**Agenda Item 5: Alternative Compliance Plan
for the Water Measurement and Reporting Regulation
Monday, February 5, 2024**

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.

The District has 86 licensed points of diversion and redirection 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 prepared an alternative compliance plan (ACP) which was approved by the Board in January 2023 and submitted to the SWRCB through an online portal. GM Salomone has attended several meetings with SWRCB staff discussing the challenges of implementation and it was suggested the District file annual updates to the ACP.

At the January 2023, the Board directed the GM and Board Advisor for Engineering to bring all retailers and other customers into compliance with the Alternative Compliance Plan. Extensive effort was made to do so; however, the manufacturer has issued a new model of the District identified “Approved Meter” (McCrometer MC MAG 3000) that has proved to malfunction in the field. Additionally, a significant number of the previous models are also malfunctioning. Steps are being taken by the GM, Board Advisor for Engineering, customers, and consultants to develop options to address the issues.

Discussion

Balance Hydrologics has outlined the proposed ACP update in the **attached** letter which will be submitted through the online portal if/when approved by the District Board.

Staff is requesting direction from the Board to act in a timely manner to address malfunctioning meters, including purchasing alternatives to the “approved meter” where necessary, and return to the Board for ratification at the next Board meeting following the action. This would be done in consultation with the Board Advisor for Engineering. Ordinance #17-01 would be brought back to the Board for updates at a later date.

(Continued...)

Recommended Board Action:

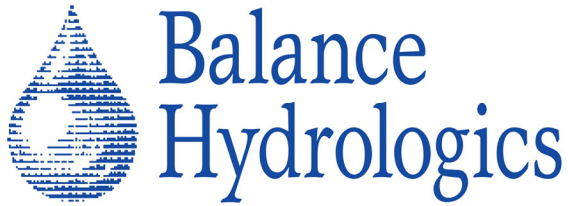
- Move to approve the SB88 Alternative Compliance Plan Update as outlined in the Balance Hydrologics letter and direct GM Salomone to submit;
and
- Direct GM Salomone and the Board Advisor for Engineering to act in a timely manner to address malfunctioning meters and return to the Board for ratification at the next Board meeting following the action.

Attachments and links to Additional Information:

1. Balance Hydrologics letter on SB88 Alternative Compliance Plan update
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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Prepared and submitted to the Board of Trustees by: *Elizabeth Salomone, General Manager*



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January 18, 2024

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 ('ACP') to satisfy these requirements within the complexity of your diversion arrangements. A prior version of this letter was submitted in January 2023 in preparation for the initial submittal of the ACP. This version provides several updates and additions in anticipation of submittal of an ACP update.

Background

SB88 was signed in June 2015, authorizing the State Water Resources Control Board ('SWRCB') to require water rights holders of greater than 10 acre-feet per year ('AFY') to measure and report surface-water diversion amounts. The 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') holds and manages Water Right License 13898 ('License'), with a maximum total diversion of 7,940 AFY (28 cfs maximum, in aggregate). There are 86 licensed points of diversion ('POD') and re-diversion under the License, most of which are identified through contracts with account holders, with individual contract amounts ranging from 4 to 1,171 AFY (some of these have multiple PODs under a single account/contract). Eighteen of the 86 authorized points of diversion do not currently have contracts with the District, and three are 'long-term inactive'¹. In addition to a contract with the District, some

¹ This refers to PODs still under contract but in which water has not been diverted by customers for multiple consecutive years; therefore meters are not installed. If the POD becomes active, the District will install a compliant meter.

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customers have additional water rights in their own name that identify the same POD and are managed independent of the District's License. While the District allocates water use among such rights, there is no feasible way to separately measure diversions under the different water rights². Some customers divert from multiple PODs, and totals are reported in aggregate.

The District has established requirements (Ordinance #17-01)³ for compliant meters to be installed for their customers, which has been partially implemented. The current status is shown in the table below:

Description	Number of PODs
Compliant data logging meter installed	49
Meter not required under proposed ACP	5
Long-term inactive	3
Not under contract	19
New meters have been ordered, but on back order	6
New meters being installed/recently installed	4

Given the broad distribution of the District's PODs, and the variability in contracted diversion amounts with individual users (as outlined further below), strict compliance with SB88 monitoring requirements is not feasible at all locations. As such, the sections below outline a proposed ACP that will allow the District to practicably meet the goals of SB88.

Monitoring requirements

SWRCB Resolution No. 2016-005 outlines the monitoring requirements for diverters. In aggregate, the 7,940 AFY under the License 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.

² In these cases, other portions of the diversion at the customers' POD(s) are governed by their own legal measurement requirements associated with the separately held water right. The proposed ACP is intended only for that portion of the water diverted under the District's License; while the District coordinates with customers to apportion diversions from each POD under the various water rights that may be associated with that POD, it ultimately relies on its customers to properly account for these determinations, including for those held under their separate water right(s).

³ An ordinance establishing regulations and rules for meter installation by the Mendocino County Russian River Flood Control and Water Conservation Improvement District.

Proposed Alternative Compliance Plan

Given the above conditions, we propose the following Alternative Compliance Plan for monitoring of water diverted under the License:

1. **1000 AFY and above – Hourly:** For individual customer POD(s) with contracted amounts greater than 1000 AFY (or customers whose combined diversions under contract and individually with meter-able infrastructure that totals more than 1000 AFY), the District will require water meters that fully comply with the SB88 standards that apply to the District (meters would record at least hourly diversion amounts, and have 10% accuracy).
2. **100 AFY to 1,000 AFY – Daily:** For individual customer POD(s) with contracted amounts greater than 100 AFY, and less than 1,000 AFY, the District will require water meters that fully comply with SB88 standards applicable to each customer's individual diversion quantity. In these cases, the meters would record at least daily diversion amounts, and 10% accuracy. 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 1,000 AFY to qualify for this alternative compliance provision. Otherwise, a fully compliant meter must be installed, as described in Section 1.
3. **Up to 100 AFY – Monthly:** For individual customer POD(s) with contracted amounts less than 100 AFY, including those with amounts less than 10 AFY, the District will require monthly manual reads, to 15% accuracy⁴. If customers hold multiple water rights at a specific POD (regardless of whether those rights are contracted with the District), then the *total* diversion amount of all water diverted by all of the customer's diversions must be less than 100 AFY to qualify for this alternative compliance provision. Otherwise, a fully compliant meter must be installed, as described in Section 1 or 2 above, as applicable.
4. In all cases, customers with a documented history of at least five (5) years of diverting significantly less than their contracted amount, may use that record to determine which of the above ACP provision applies, assuming they do not have plans to increase their diversion above a given threshold in the next three (3) 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* of each customer's water rights (regardless of whether under contract with the District) must be considered when determining which ACP monitoring standards apply.
5. In some cases, customers use no water under the District's water right in a given reporting period. Under this scenario, the District would simply report no diversion at that (or those) particular POD(s), rather than submitting a data file that includes only a series of zeros. This avoids the extra effort of digitally altering a data reporting file to subtract out all of a customer's other diversions under separate water rights, when it is already known that the customer didn't use any District water.
6. In all cases, if installed meters/recorders fail and/or if data are lost, the meter/recorder shall be repaired or replaced as soon as feasible. In the interim, the District shall require the customer to

⁴ The District provides monthly readings. Weekly readings, as would typically be required for SB88 compliance for direct diversions between 10 and 100 AFY is not feasible due to the number of PODs to be monitored, and the limited resources of the District.

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provide estimated water usage volumes on at least a monthly basis. Estimates should be based on an operator log of when and how long the diversion was operational during the interim period, and the known application of diverted water.

Through the annual customer-signed Water Use Worksheet, the District receives confirmation from each customer confirming how much water was used during the reporting period, and the portion thereof that was diverted under the District's License. All District customers are bound to comply with the ACP through the District's contract, which requires Customers to meet District rules, regulations, and metering requirements.

Certification and Maintenance

The above section references portions of the ACP that relate primarily to reporting requirements. In addition, the District is seeking to include additional provisions that relate to certification and maintenance of the District-owned water meters that it has been (and will be) installing for most of its customers. The District is including the following adaptations under the current version of its ACP:

- SB88 guidelines state that meter maintenance should be conducted “after 5 years (or as often as necessary to meet accuracy requirements...)” Sending all District-owned meters back for calibration every 5 years is an unnecessarily burdensome requirement, and typically not in line with manufacturer recommendations for calibration/servicing. Given that, the ACP will address meter maintenance as follows:

“Meter calibration shall be performed following the manufacturer's maintenance schedule, based on recommendations of a qualified installer or individual, and/or on an as-needed basis when a meter malfunctions. Meters may be serviced/calibrated in the field, or returned to the manufacturer, based on the recommendation of the qualified individual.”

Next steps

The District will re-submit the ACP, with the alterations described above, under the assumption that all customers will be brought into compliance by the end of December 2024⁵. Additional items needed to be completed for compliance include the following:

- Customers falling under ACP Section 2 above must have a compliant meter installed or have consistent documented prior diversions of less than 100 AFY, as described above.
- Customers falling under ACP Section 3 above 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.

⁵ Some of the meters anticipated to be installed by last summer were backordered, so full implementation of the metering plan was not able to be completed.

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The District anticipates that compliance with the ACP, as outlined above, will be implemented by the end of December 2024. The current compliance status and planned implementation schedule for resolving the remaining compliance issues will be included as part of the ACP submittal process.

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.



Scott Brown, P.G.
Principal Geologist/Hydrologist