

Comments on Preprint SB 2

Released September 3, 2009

Overview:

Preprint SB 2 (incorporating SB 229, Pavley) addresses recommendations regarding improved information regarding water use and more effective tools for the management of those resources found in Goal 4 of the *Delta Vision Strategic Plan*. It incorporates many of the recommendations of the *Delta Vision Strategic Plan*. These comments identify several areas where changes would bring the proposed bill closer to those recommendations.

	Section	Comment	Proposed Solution
Preprint SB 2 (Incorporating SB 229, Pavley)			
	Water Code section 5101	The bill strengthens the requirements for filing a statement of water diversion and use, but does not eliminate exceptions that make it difficult for the SWRCB to determine how much water is diverted and used by diverters in the Delta.	Amend Water Code section 5101 as follows: Each person who, after December 31, 1965, diverts water shall file with the board, prior to July 1 of the succeeding year, a statement of his diversion and use; provided, however, that no statement need be filed if the diversion is any of the following: (a) From a spring which does not flow off the property on which it is located. (b) Covered by an application, permit or license to appropriate

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			<p>water on file with the board.</p> <p>(c) Included in a notice filed pursuant to Part 5 (commencing with Section 4999 of this division.</p> <p>(d) Regulated by a watermaster appointed by the department.</p> <p>(e) Reported by the department in its hydrologic data bulletins.</p> <p>(f) Included in the consumptive use data for the delta lowlands published by the department in its hydrologic data bulletins.</p> <p>(g e)Included in annual reports filed with a court or the board by a watermaster appointed by a court or pursuant to statute to administer a final judgment determining rights to water, which reports identify the persons who have diverted water and give the general place of use and the quantity of water which has been diverted from each source.</p> <p>(h-f) For use in compliance with the provisions of Article 2.5 (commencing with Section 1226 of Chapter 1 of Part 2 of this division.</p>
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	5106(d)(1)	<p>This bill would establish a rebuttable presumption, in any proceeding before that board in which it is alleged that an appropriative right has ceased or is subject to prescribed action, that no use required to be included in a statement of diversion and use occurred unless that use is included in a statement that is submitted to the board within a specified time period.</p> <p>But that is the only penalty for failure to file.</p>	<p>The board should be given the ability to impose civil administrative penalties for failure to file the required statement.</p>
	5108	<p>The bill does not repeal or amend section 5108, which provides that statements of diversion and use are for informational purposes only and the failure to file shall not have any legal consequences whatsoever other than those specified.</p> <p>Because the information contained in the statements is important for Delta water planning, filing the statements should be mandatory.</p>	<p>Repeal Water Code Section 5108:</p> <p>Statements filed pursuant to this part shall be for informational purposes only, and neither the failure to file a statement nor any error in the information filed shall have any legal consequences whatsoever other than those specified in this part.</p>
	10927 et seq.	<p>The bill proposes a groundwater monitoring program, but does not require the reporting of groundwater pumping.</p> <p>That information could be very useful to the board and/or DWR.</p>	<p>Amend Water Code section 4999 to read as follows:</p> <p>The Legislature finds and declares that by reason of the combination of light rainfall, concentrated population, the transition of considerable areas of land from agricultural use to urban use, and a similar dependence on groundwater supplies which prevails in the Counties of Riverside, San Bernardino, Los Angeles and Ventura, together with the fact that most such underground water supplies are overdrawn, need for groundwater extraction information for statewide and regional water planning,</p>



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			<p>it is necessary that the provisions of this part apply to said counties only. <u>all the counties in the State.</u></p> <p>Amend Water Code section 5000 to delete the definition of "Four counties: (c) "Four counties" means the Counties of Riverside, San Bernardino, Los Angeles, and Ventura.</p>
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