

KYN

**ALADDIN DEPOT
P.O. BOX 1504
EL GRANADA, CA 94018
393-9050 510 886-2285 (fax)**

Via Regular Mail and E-Mail FlowPolicy@waterboards.ca.gov

Karen Niiya
State Water Resources Control Board
P.O. Box 2000
1001 I Street, 14th Floor
Sacramento, CA 95812-2000

U.S. DEPARTMENT OF AGRICULTURE
NATIONAL SERVICE CENTER
2000 MAY -1 PM 11:52
MAIL ROOM

RE: North Coast Instream Flow Policy
Water Rights Application No. 30828
12100 Big Meadow Road, Philo CA

Dear Ms. Niiya,

We have been trying to obtain Water Rights on our existing pond, as required by the State, for 15 years. The first 7 years we were able to file all the required paperwork by ourselves to the point where we had our final inspection by Julie Humberstone and Laura J. Vasquez. At that time, we were verbally told that everything was acceptable and complete and that we should expect to be granted our water rights within the next couple of months. Approximately 1 year later, we were told that the State Water Board is no longer issuing water rights and that if we wanted to continue pursuing water rights we had to hire an Engineering and an Environmental firm familiar with water rights. These firms will be directed by the State at our expense. We obliged because water rights are very important to us. Since this time, we have incurred approximately \$38,000.00 for consultants, engineers, foresters and other specialists. Several months ago, we were again told that we had satisfied all requirements and studies. It was concluded that our pond had no negative impact on the Navarro River Watershed and fisheries.

Now again, for the third time, the State is trying to change the requirements by adopting a new costly time consuming policy for the attainment of water rights. This pond is vital to us for agriculture purposes and fire safety. We are under financial burden due to this prolonged process. We have not been able to plant our vineyard nor other crops. Due to the inability of the State Water Board to adhere to its policy developed at the time we are again being subjected to even more of a financial burden. During our years of trying to obtain water rights, all costs have significantly risen to be able to plant, maintain and use our land. As we have not finished planting not knowing whether we have water rights or not.

What is further dismaying is the fact that no more instream dams will be allowed by this new policy and existing instream ponds will have to have installed and an expensive bypass diversion system. The pond we have is located near the top of a mountain. It fills within the first two weeks of a rainy seasons and then overflows the remaining portion of the season. After the rains are over our pond seeps and contributes to the watershed the rest of the season. This benefit's the fisheries by cooling and provides additional water that otherwise will not be there for fish or other wild life. This definitive information was not addressed in the new policy. It seems to us, that if implemented, this new policy with the requirements of its bypass as proposed or the removal of the dam will effect the fisheries and the environment will suffer dramatically. Here are just a few examples:

1. The pond will not fill because of the diversion restriction requiring extremely high flows only to be allowed to be diverted.
2. During the dry season where water flows year round from our existing pond seepage would not exist at all, furthermore compromising the many environmental concerns.
3. Our pond supports a new habitat. This ecosystem supports several species of wildlife that did not exist prior to the pond. One example is that our pond duck population has grown from 2 to 32.

During the workshop in Santa Rosa, we were made aware that no scientific

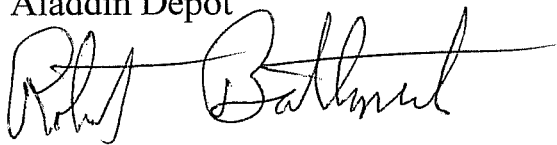
Page no. 3
Karen Niiya

data compiled by any of the applicants' Engineers or Environmental Consultants was used to form the new proposed policy. This seems to raise a very big legal question in our mind. We are wondering, if possibly, if there is another agenda in the formation of this new policy.

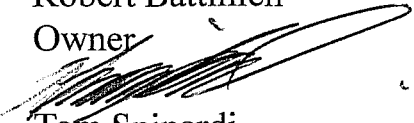
Due to the fact that sound local scientific data, gathered by our and applicant consultants was omitted, we are wondering how much longer and if at all, and at what future expense, notwithstanding economic hardship, will be incurred by us to use our land.

For the record, we feel and from the information we have concluded that this policy is not suitable nor workable and totally unacceptable and it must not be adopted. The former policy was adequate yet cumbersome. The new policy is obstructive.

Sincerely,
Aladdin Depot



Robert Battinich
Owner



Tom Spinardi
Owner