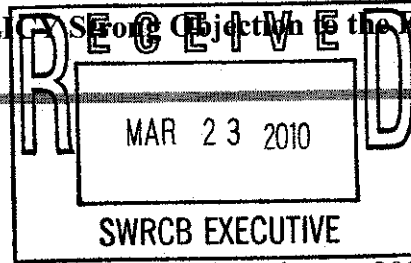


commentletters - COMMENT LETTER AB2121 POLICY Strong Objection to the February 2010
Draft North Coast Instream Flow Policy



From: James Spudich <jspudich@stanford.edu>
To: <commentletters@waterboards.ca.gov>
Date: 3/23/2010 1:15 PM
Subject: COMMENT LETTER AB2121 POLICY Strong Objection to the February 2010 Draft North Coast Instream Flow Policy
CC: Anna Spudich <aspudich@gmail.com>, <ecarrillo@sonoma-county.org>

Subject: Comment Letter – AB2121 Policy
February 2010 Draft North Coast Instream Flow Policy
Strong Objection to this Draft Policy and Request for Extension of Time

I request that these comments be made part of the administrative record for the Proposed Policy for Maintaining Instream Flows in Northern California Coastal Streams.

In response to AB2121, the State Water Resources Control Board (SWRCB) staff has recommended a proposed policy, applicable regionally, that would have drastic negative impacts on The Sea Ranch water supply. It would leave The Sea Ranch without water supply for days or even months each year.

Two components of the proposed policy's Regional Criteria are especially onerous, and their economic burdens must be lifted if The Sea Ranch is to remain a viable community:

1. The proposal is to limit the diversion season to December 15 to March 31. For years, The Sea Ranch Water Company has met the water needs of The Sea Ranch under a set of permits allowing the diversion of water from the aquifer underlying the South Fork Gualala River. The wells may operate year-round provided there are specified minimum surface flows bypassed. The Sea Ranch rigorously adheres to those bypass requirements. Typically the flow is adequate for the wells to operate from December until July, although in the 2008-2009 drought, pumping didn't begin until February 2009.
2. The proposed policy will mandate huge volumetric river flows (commonly referred to as bypass flows, or river water flows that go past the well's location) in the Gualala River before we can operate the wells. We estimate that the bypass flows would have to be about 10 times greater than the state's current permitted policy for The Sea Ranch. □

The combined effect would be to deprive The Sea Ranch of adequate water supply to sustain the community's viability even in normal rainfall years.

The Sea Ranch water rights and facilities were developed and conditioned to meet both fish protection and municipal water service needs based upon assumptions far different from those reflected in the proposed policy. The policy appears to be designed as if unimpaired conditions are the starting point and without any consideration of municipal water service needs.

The Sea Ranch developed off-stream storage to provide better fishery protection. This offstream reservoir was sized for the presently permitted diversions, including bypass flows and rate caps. Under drought conditions, the Regional Criteria would cause the reservoir to dry up quickly, leaving NO water supply for The Sea Ranch. During times when water is available, that supply would be reduced to approximately 15-25 percent of the needed supply. Our research has shown that even in normal years,

The Sea Ranch would be without a water supply for weeks or months.

The Sea Ranch has an excellent water conservation program and a very low gallons per capita per day usage. The opportunity for additional conservation is at most limited.

The impact on property value in The Sea Ranch would be enormous. If the proposed policy is put into effect, property values will drop precipitously, causing loss of jobs and decreased property tax revenues in the region. Our area already suffers from chronic unemployment and would suffer more. The proposed policy may be applicable to some hypothetical regional norm, but it does not take into account the actual hydrology of the Gualala River watershed. Nor does the proposed policy recognize that the primary threats to fish in the South Fork Gualala River are silt, high temperatures caused by de-vegetation of riparian zones, and de-watering of the upper reaches of the Gualala River watershed. The "one size fits all" proposed regional policy has no basis in science applied to the Gualala River watershed or to our operation of diversion from the aquifer underlying the Gualala River watershed. The geology, hydrology, and biology of the Gualala River watershed are dramatically different from the conditions of the areas that served for validation of the proposed policy. In particular, the aquifer from which The Sea Ranch pumps its water extends several hundred feet deep into the San Andreas Fault zone. To the best of our knowledge, it has been asserted, but not demonstrated, that surface flows in the river are reduced by diversion of aquifer storage. Even if this occurs, the relationship may well be quite attenuated. There are no studies showing that flows in the aquifer are correlated with the short, high volume, bursts of surface flow characterized in the proposed policy.

If the SWRCB is proposing to destroy the community in which I live (a remarkable and unacceptable proposal), at the very least the SWRCB must demonstrate that the proposed policy as applied to the South Fork Gualala River has scientific validity and will lead to demonstrable increases in salmonid populations. Presently, these Regional Criteria would dedicate far more water to one use than is reasonably needed, while causing enormous damage to other reasonable existing uses.

Site Specific Studies

The proposed policy provides for an exception to application of the Regional Criteria. Although a welcome concept given the drastic and harmful impact threatened by the Regional Criteria, the site specific studies alternative appears to be inadequate to those of us whose residences and economic well-being is seriously threatened. The policy would permit The Sea Ranch to present "site specific" studies as an alternative. To meet the SWRCB's proposed guidelines and to have scientific integrity, such studies would have to be equivalent to full environmental impact studies under the California Environmental Quality Act (CEQA) and could cost \$1 million or more. There is a real concern that the state endorsed Regional Criteria will be used as a measuring stick even for the site specific studies. The proposed policy provides limited, and generally constraining, criteria by which a "site specific" alternative would be evaluated. Any alternative could be subjected to an ill-defined and arbitrary concept rather than a scientifically justified standard. The Principles which the draft policy indicates would apply to the site specific studies also direct water to be dedicated first and foremost for instream flow. There is no provision for consideration of other beneficial uses of water. There is no provision for consideration of the impacts of the policy.

The proposed policy should be scrapped or revised to require that economic and other impacts on water users be taken into account and avoided. The policy should employ science applicable to the relevant stream. The policy should be evaluated including burden as well as benefit.

The proposed policy was announced on February 18, 2010. Forty-five days is an inadequate time for evaluation of the impact of a very complex and highly technical policy on specific sites. While The Sea Ranch has had the opportunity to do an initial evaluation of its impacts, I have not had the time needed to evaluate the economic effects on my property (my primary and only residence) on The Sea Ranch, or on the larger coastal community. I request that the SWRCB extend the comment period for 90 days. The SWRCB has scheduled one weekday hearing on the proposed policy, to be held in Sacramento, many hours drive for those whose lives will be affected by the proposed policy. I request that the SWRCB schedule workshops and hearings in the north coast region so that those citizens whose homes and livelihoods will be affected by the SWRCB's decisions may be heard.

Thank you for your consideration of these comments.

Yours sincerely,

James A. Spudich
Professor of Biochemistry
Stanford University
Sea Ranch property and home owner

cc: Supervisor Efren Carrillo, Fifth District Supervisor, County of Sonoma

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