

Friends of the Navarro Watershed

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State Water Resources Control Board
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DIV OF WATER RIGHTS
SACRAMENTO

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STATE WATER RESOURCES
CONTROL BOARD

Dear Ms. Niiya,

I'm writing to comment on the "Draft Policy For Maintaining Instream Flows In Northern California Coastal Streams". Although the enforcement policy in Water Code 1825 is strongly written, the actual enforcement is weak. It is stated that "It is the intent of the Legislature that the state should take vigorous action to enforce the terms and conditions of existing permits and licenses to appropriate water and to prevent the unlawful diversion of water." However, in a number of cases vigorous action is non-existent, and unlawful diversion of water continues unchallenged. Time-lines for compliance extend for years. Fines are not imposed. To illustrate this, I'd like to set out the history of the attempted regulation of one reservoir in Boonville, California..

In 1998 the Division of Water Rights surveyed existing reservoirs in the Navarro watershed based on satellite photos from 1991. One hundred thirty ponds were found for which there were no known water rights. Phillip W. Wasson was an owner of one of those ponds.

Here is a summary of the correspondence between Mr. Wasson and the Division during the past nine years.

- On December 14th, 1999 Division served Mr. Wasson with ACL Complaint No. 262.5-6
- On March 1, 2000, there was a hearing in which a \$2000 civil liability fine was imposed. (Presumably, Mr. Wasson paid this fine, at least.)
- On August 30, 2000, Mr. Wasson filed application 31097 to appropriate water.
- Five protests were filed, including Friends of the Navarro Watershed ...etc as written.
- On June 25, 2004, *four years later*, we received word that our protests had been accepted.

- Mr. Wasson requested that application 31097 be withdrawn. August 23, 2004, Division denied his request, and directed him to seek a water right permit, and to answer the 5 protests by letter. If he failed to do so he would be subject to fines of up to \$1000 per day.
- Mr. Wasson said in a letter to the Friends of the Navarro Watershed that the pond had "been in existence for approximately 30 years."
- On December 21, 2005, Division requested the submittal of 3 signed MOU forms within 60 days
- On March 22, 2006, Division granted a 60 day extension for the signed MOU forms, revision the date to May 21, 2006.
- Mr. Wasson failed to submit the forms.
- On February 14, 2007, Division again requested the signed MOU forms within 30 days.
- On April 16, 2007 Mr. Wasson submitted a letter with an incomplete and unsigned MOU.
- On March 17, 2008 Division canceled application 31097 of Phillip Wasson to appropriate water, due to Mr. Wasson's failure to submit information requested. At that time Division offered Mr. Wasson the chance to file a petition, which could lead to a hearing. This letter states that Mr. Wasson must remove or modify the diversion works or impoundments to ensure that water is no longer diverted, or be subject to a fine of \$500 a day, half the possible amount mentioned four years earlier.

Meanwhile, the pond is still in existence, the fines have not been levied, and water continues to be diverted, a situation that, by his Mr. Wasson's own admission, has been going on for thirty years. The endless stream of paperwork assures that one stubborn man still continues to help himself to unregulated water while the state sits by apparently helpless.

In a lax regulatory climate, with examples such as this, it is not surprising that some land owners ignore the government and build their ponds anyway. Business-as-usual is undisturbed, both in Boonville and in Sacramento. Too bad about the fish, even though the Sacramento and Klamath fisheries are in rapid decline... Too bad about the domestic wells going dry.

We would have hoped that AB 2121 would have resulted in more effective and protective regulations, but Section 11, Enforcement of the "Draft Policy For Maintaining Instream Flows In Northern California Coastal Streams" seems to have taken things several steps in the opposite direction. Now the bravado of "strong words, weak actions" that we had earlier seems to have been replaced with vague language that allows the state to do even less, on budgetary grounds, about the massive abuse of our public trust resources while the illegal diverters have their water given to them with ever more lenient policies like extending the diversion season and adapting the ill-advised use of "watershed groups". This "Draft Policy for Maintaining Instream Flows Northern California Coastal Streams" would not do what its title suggests, quite the contrary.

Stephen Hall, for Friends of the Navarro