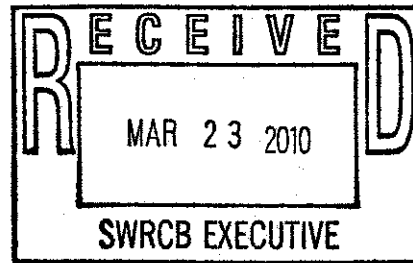


Charles R. Hoppin, Chair, SWRCB
State Water Resource Control Board
1001 I Street, 24th Floor
Sacramento, CA. 95814



Dear Mr. Hoppin,

I am in receipt of the Revised Policy for Maintaining Instream Flows in Northern California Coastal Streams. As owners and registrants of a Small Domestic Pond, we are extremely worried as to the potential consequences of this policy.

I ask you to review the section of revised policy below.

3.3.3 Small domestic use and livestock stockpond registrations

A person can obtain a right to appropriate water for a small domestic or livestock stockpond use by registering the use with the State Water Board. (Wat. Code, § 1228 et seq.) A registration of water use must include a certification that the registrant agrees to comply with all conditions required by DFG, including conditions on the construction and operation of the diversion work. (*Id.*, §1228.3, subd. (a)(7). An appropriation pursuant to a registration within the policy area is subject to the following conditions:

1. No water may be stored or diverted under the registration by means of an onstream dam constructed on a Class I or Class II stream after July 19, 2006.
2. DFG imposes conditions consistent with the principles of this policy that are stated in Section 2.1. DFG's authority to impose conditions on small domestic use and livestock stockpond use registrations includes, but is not limited to, the authority to impose bypass flow conditions and monitoring during all or a portion of the authorized season of diversion.

In 1999 we invited the DFG onto our property for advice and permission to repair our much in need, eroded, stream bed. We did the work and complied with all their concerns. We then applied for, and received, a Small Domestic Use registration for the 40 plus year old pond associated with the aforementioned stream. As is current policy we have renewed our registration every five years. **My concern is what will happen when we next apply to renew our registration under the new proposed guidelines.**

I have expressed these concerns in prior correspondence. My wife and I received a letter from Tam M. Doduc addressing our concerns. In the letter Ms. Doduc stated we should not worry as we already had a Small Domestic Registration. The inference was

we had complied once and would not be subject to further scrutiny. Please consider **3.0 POLICY APPLICABILITY**, including and note **3.3 Water Right Actions Covered by the Policy**. "This policy applies to applications to appropriate water, small domestic use and livestock stockpond registrations and water right petitions."

We have yet to find verbiage in this document that allows renewal of Small Domestic Pond registrations without applying under the new policy.

We very much hope this is not the case. Imagine every five years going thru a process that includes, under **3.3.3 Small domestic use and livestock stockpond registrations**: "DFG's authority to impose conditions on small domestic use and livestock stockpond use registrations includes, but is not limited to, **the authority to impose bypass flow conditions** and monitoring during all or a portion of the authorized season of diversion."

There is no assurance from one registration period to the next of continuance without great expense and effort. During the first renewal under the revised policy and or subsequent renewals, we will be at risk of DFG imposed studies, permits and resultant construction.

This would be an unsustainable burden. The costs alone, recently revised higher by your group, will force my wife and I off our property. **Can you imagine, Mr. Hoppin, an expense mandated by SWRCB policy that eclipses your mortgage?** The Water board will be serving eviction notices to small farmers and ranchers.

Historically there has been good reason Small Domestic ponds were handled differently than other water rights applications. Their small size, and therefore impact, has been recognized as insignificant when compared to other impediments regards instream flow concerns. This is truly still the case.

Please assure my wife and I through written policy that our farm is not in jeopardy. There must be a way found to unencumber small landowners from the potential disastrous reach of this revised policy.

Sincerely,

John L. Painter

Cc:

Dorothy R. Rice, Executive Director, SWRCB
Arthur G. Baggett, Jr., Board Member, SWRCB
Frances Spivy-Weber, Board Member, SWRCB
Tam M. Doduc, Board Member, SWRCB
Gary Wolff, Vice Chair, SWRCB
Karen Niiya, Senior Engineer, DWR