



Fontanella

April 30, 2008

Via Electronic Mail and U.S. Mail

Ms. Karen Niiya, Senior Engineer  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street, 2<sup>nd</sup> Floor  
P.O. Box 2000  
Sacramento, CA 95814

2008 MAY -1 AM 9:01  
DIVISION OF WATER RIGHTS  
SACRAMENTO

Re: Comment Letter – AB 2121 Policy

Dear Ms. Niiya,

I am deeply concerned about the proposed AB 2121 Policy and the devastating impact this policy would have on my family property and the business we operate from there. We own a 26 acre parcel in Napa County and have an existing pond on the property consisting of approximately 9.7 acre feet. The pond has been on the property for as long as anyone can remember and is not only a distinct physical feature of the property but also home to many fish, birds, frogs, snakes and other forms of wildlife that have come to inhabit the pond.

We purchased the property in November of 2005 and were informed that our predecessor had filed an application with the SWRCB on March 6, 1999 to permit the existing use of storing water in an onstream reservoir. It was our understanding that while the application would likely take some time to process, we were taking all the necessary steps to validate our use. We have been cooperating and working closely with the SWRCB on processing our application and performing the environmental studies required under our MOU.

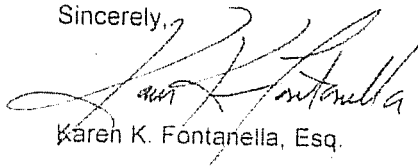
From our understanding, the direct implementation of the proposed policy as written would have a drastic and debilitating impact on the existence of our pond. The policy not only threatens the existing ecosystem on our pond, but also the cost of implementing the proposed policy would have a critical financial impact on us personally and severely impacts our ability to produce grapes on our property which affects our family business.

While our application has been on file for nearly 10 years, we believe that the implementation of the Policy will result in further delays in processing our application because the majority of applicants and petitioners will need to seek a variance due to the stringent bypass and diversion rate limitations in the Policy. The variance criteria are not clearly defined in the Policy; therefore, we believe that processing of numerous variance requests will exacerbate the already back-logged workload of the State Water Board staff, and further delay approval of our pending action.

It is quite clear that the Policy does not provide a balance to the competing needs for water as it fails to weigh the many benefits derived from the agricultural, domestic and industrial uses of water such as ours and the impact on the ecosystems already in existence on our pond. There is no indication in the Policy that the fishery resources would actually benefit from my implementation of such measures.

We believe that we, as citizens, deserve the right to have clear and effective guidance on how to secure our water right permit and this proposed policy is not only confusing, but fails to balance the rights and economic interests of the citizens of the State of California as well as the environmental protections of other existing species that rely on the existence of ponds such as ours. The Draft Policy should be rejected and replaced with one that balances economic interests and environmental protection.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen K. Fontanella". The signature is fluid and cursive, with the first name "Karen" and last name "Fontanella" clearly legible.

Karen K. Fontanella, Esq.

cc: Tam Doduc  
Arthur Baggett, Jr.  
Charles Hoppin  
Frances Spivy-Weber  
Gary Wolff