

CITY OF CALISTOGA
City Clerk

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*Susan Sneddon
City Clerk*

April 15, 2008

**Communication "E" April 15, 2008 Calistoga City
Council Meeting**

Item # 13: Exception to the public water system
connection for the proposed winery

GRANT REYNOLDS

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Mammoth Lakes, CA 93546

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Via Personal Service

CALISTOGA CITY COUNCIL

C/o Susan Sneddon,
City Clerk City of Calistoga
1307 Washington Street
Calistoga, CA 94515

Re: Agenda Item regarding
"Exception to Public Water
System Connection"

Gentlemen,

By way of introduction, my name is Grant Reynolds and I have been designated by Ms. Debbie R. O' Gorman to make known her objection to your proposal to essentially expand your water district's service area by approving the above-referenced agenda item

Ms. O'Gorman is the owner of the pre-1914 water rights to the five springs that supply water to your Kimball dam storage facility via Polson Creek. She is a descendent of Merrit Reid Tubbs and Chapin F. Tubbs. Both of these individuals executed the original November 2, 1939 Agreement in which the City of Calistoga agreed that a right to the Tubbs existed to transfer water from the upper springs to their lower lands that are still occupied by her today.

Item 4 of the Agreement stated in part as set forth below:

"4. That it is expressly understood and agreed that nothing herein to the contrary notwithstanding shall ever be construed or intended to diminish, modify, reduce or limit in any manner or by any means any of the present existing sources of water supply of --- "Tubbs or his right to take, develop and appropriate from said springs and/or said Poulson Creek and /or its tributaries upon said upper lands of ---" of Tubbs.

It is the position of Ms. O'Gorman that the City's right to take water was limited by the amount of water the City was using at the time the Agreement was made in 1939. She asserts now that because the City has increased the amount of water taken from the time of the Agreement to 100% of the Poulson Creek flow, that it has violated the Agreement; and that the City has been and is now still in breach of the 1939 Agreement, which can subject the City to damages for increasing its take of water to the extent that Ms. O'Gorman's ability to take, develop or appropriate has been diminished, modified, reduced and limited all in violation as set forth above.

Ms. O'Gorman respectfully requests that the City not increase its use of water taken from the springs that feed the Kimball Reservoir and demands that the City immediately reduce the amounts of water appropriated from Poulson Creek to the original 1939 quantity upon which the Agreement was based.

Lastly, Ms. O'Gorman directs your attention to her signature below, which attests to my authority to deal with the City on her behalf.

Respectfully submitted,

GRANT REYNOLDS

I, Debbie O'Gorman do hereby authorize and do appoint Mr. Grant Reynolds to submit this letter in opposition to the City of Calistoga's April 15, 2008 Agenda Item "TO CONSIDER A REQUEST FOR EXCEPTION TO THE PUBLIC WATER SYSTEM CONNECTION REQUIREMENT FOR A PROPOSED WINERY LOCATED AT 2280 GREENWOOD AVENUE (APN 011-351-017) PURSUANT TO CALISTOGA MUNICIPAL CODE SECTIONS 13-04.170"

Please direct all future communications (if any may be forthcoming at all) concerning any matter related to my water rights to Mr. Reynolds.

DATED: April 15, 2008

By: *Debbie O'Gorman*
DEBBIE O'GORMAN