

Tauriainen, Andrew@Waterboards

From: O'Hagan, John@Waterboards </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=O'HAGAN, JOHN@WATER7B72A79A-DD76-4B3C-B470-A3BF3B5BCDD7939>
Sent: Friday, August 08, 2014 1:22 PM
To: Grober, Les@Waterboards
Cc: Montgomery, Amanda@Waterboards; West, Yvonne@Waterboards; Coats, Brian@Waterboards; Miller, Aaron@Waterboards
Subject: RE: Delta diversions

This is a bad time because both Yvonne and I are both out. Amanda will be acting for me but she is not familiar with the letters. I have saved letters at: S:\DWR\VOL1\COMDRV\2014 DROUGHT\Delta issues. Brian is acting as Enforcement Manager next week but he and Aaron are working on our process information for Term 22 for Michael B and for a potential Curtailment Order. Yvonne drafted an order format for the informational item based on the Bureau and DWR letter.

Per our discussion we have identified limited benefits of getting the information, especially this late in the year and if limited to south delta.

Benefits may be:

- Patent Date, pre-1914 priority date, and diversion information for this year can be requested and reviewed and used for:
 - Adjustment of South Delta Demand currently used for this year's analysis and any future analysis. If we are able to process the required information, the new demand information may affect determination of date for re-activating post-1914 diverters.
 - Identify claims that do not have sufficient supporting information. Unfortunately, the Regulation requires to comply with request for information but it does not require accurate information to be submitted.
 - Potentially identify cases of unauthorized diversions. Note: enforcement would be via existing enforcement process.

What an Information Order cannot require and Does not Solve:

- Cannot require the Delta Diverters to specially identify what water source is being used under claimed water right. The Delta diverters would still claim portion of their right satisfied by Bay water.
- Does not relate the priority of South Delta rights to the priorities claimed by diverters in the upper watershed.
- Does not identify the water that is available to divert under riparian, pre-1914 or post-1914 rights.

Informational order may not be the right tool, if applied only to the south delta area, but may be useful if inclusive of all diverters located immediately downstream of the CVP and SWP reservoirs. This may be important, especially after October when contracts end but dry conditions persist. Contractors and others will be diverting at that time under prior right claims, and that demand may limit vital collection of water to storage due required Project releases for delta conditions. However, we do not have a complaint.

From: Grober, Les@Waterboards
Sent: Friday, August 08, 2014 7:29 AM
To: O'Hagan, John@Waterboards
Subject: FW: Delta diversions

Here is the formal request. We should not wait until you are back so tell me who I should work with.

From: Evoy, Barbara@Waterboards
Sent: Thursday, August 07, 2014 7:37 PM
To: Grober, Les@Waterboards
Subject: Fwd: Delta diversions

FYI

Sent from my iPhone

Begin forwarded message:

From: "Dadamo, Dorene@Waterboards" <Dorene.Dadamo@waterboards.ca.gov>
Date: August 7, 2014 at 7:34:52 PM PDT
To: "O'Hagan, John@Waterboards" <John.O'Hagan@waterboards.ca.gov>, "Marcus, Felicia@Waterboards" <Felicia.Marcus@waterboards.ca.gov>, "Evoy, Barbara@Waterboards" <Barbara.Evoy@waterboards.ca.gov>, "Cole, Anna@Waterboards" <Anna.Cole@Waterboards.ca.gov>, "Sawyer, Andy@Waterboards" <Andy.Sawyer@waterboards.ca.gov>, "Barrios, Alicia@Waterboards" <Alicia.Barrios@Waterboards.ca.gov>
Cc: Thomas Howard <tomrhow@me.com>, "Trgovcich, Caren@Waterboards" <Caren.Trgovcich@waterboards.ca.gov>, "Lauffer, Michael@Waterboards" <michael.lauffer@waterboards.ca.gov>
Subject: Delta diversions

Barbara- I'd like to get a briefing on how we are going forward with this issue. Felicia is also interested, and we'd like to be in the same briefing. Can you please coordinate with Anna and Alicia on setting up a meeting? My preference is on Wed. the 13th if possible. Thanks, -DD
DeeDee D'Adamo
Board Member
State Water Resources Control Board
916-341-5264

From: "George V. Hartmann" <gvhlaw@gmail.com>
Date: Thursday, August 7, 2014 at 7:01 PM
To: Barbara Evoy <barbara.evoy@waterboards.ca.gov>
Cc: Tom Howard <tom.howard@waterboards.ca.gov>, "Marcus, Felicia@Waterboards" <Felicia.Marcus@waterboards.ca.gov>, "Spivy-Weber, Frances@Waterboards" <Frances.Spivy-Weber@waterboards.ca.gov>, DeeDee D'Adamo <dorene.dadamo@waterboards.ca.gov>, Steve Moore <steven.moore@waterboards.ca.gov>, Tam Doduc <tam.doduc@waterboards.ca.gov>, Jeanne Zolezzi <JZOLEZZI@herumcrabtree.com>, Dante Nomellini <ngmplcs@pacbell.net>, "tkeeling@freemanfirm.com" <tkeeling@freemanfirm.com>, "Dante Nomellini, Jr." <dantejr@pacbell.net>, John Herrick <Jherrlaw@aol.com>, "rmehlhaff@mehlhaff-law.com" <rmehlhaff@mehlhaff-law.com>, "Keller, Kurtis C." <kkeller@neumiller.com>, John O'Hagan <john.O'Hagan@waterboards.ca.gov>, Craig Wilson <craig.wilson@waterboards.ca.gov>, "Mia S. Brown" <mbrown@miabrownlaw.com>, "Alexis Stevens (astevens@somachlaw.com)" <astevens@somachlaw.com>, Jennifer Spaletta <jennifer@spalettalaw.com>
Subject: Re: Letter from South Delta landowners

August 7, 2014
VIA ELECTRONIC MAIL

Ms. Barbara L. Evoy
Deputy Director
Division of Water Rights
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
RE: July 23, 2014 Letter from DWR and USBR and related correspondence

Dear Ms. Evoy:

This office represents Reclamation Districts and landowners in the Delta. Please regard this letter as a strong objection to the Board taking any action in response to the DWR and USBR July 23, 2014 "letter" other than scheduling a hearing. The letter in question does not appear to be a complaint that would trigger specific actions by the Board under its recently-adopted emergency regulations - much less a "wholesale" investigation of the water rights of all in-Delta diverters - which, as Mr. Herrick has ably stated in his letter to you - have already been thoroughly investigated by the Watermaster and others.

The McDonald Island landowners and Reclamation District (No. 2030) recently furnished the state Watermaster with the preliminary but factually accurate results of a recent study that clearly and simply demonstrates that the drainage system on McDonald Island returns substantially more water to the Delta than is consumed by crops, evaporation and carriage losses. Water returned to the system includes tail-water, seepage, rainfall and artesian flows. We are prepared to submit the results of our study to the Board as part of the record of a proper hearing.

To suggest, as DWR/USBR asserts in their letter to you, that Delta diversions increase the amount of stored water that must be released in order to maintain salinity levels, is mere speculation and without foundation. We believe this and other issues should be thoroughly vetted in the proper forum. We also believe that the Board Members and Staff (as well as DWR and USBR) would be helped by understanding the reality of the Delta, the constant availability of water in the Delta, and what would happen if landowners / farmers were rendered unable to conduct farming and reclamation (drainage) operations in the Delta. All of these subjects (and more) are ripe for discussion at a properly noticed Hearing, which we request before any action is taken under the emergency regulations.

I am out of the office on vacation and do not have my firm's letterhead available. Please accept this communication in email format.

Very Truly Yours,

George V. Hartmann

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Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker the lawyer has superior opportunity of being a good man. There will still be business enough.

Abraham Lincoln
16th president of US (1809 - 1865)