

Eggers, Tomas@Waterboards

From: Amanda Frye <amandafrye6@gmail.com>
Sent: Monday, January 29, 2018 9:29 AM
To: Stork, Natalie@Waterboards; Vasquez, Victor@Waterboards; Petruzzelli, Kenneth@Waterboards
Subject: USFS audit of Arrowhead / Nestle
Attachments: arrowhead-water-2008-audit-redacted.pdf

Please add this to your resources for investigation regarding Nestle water /Arrowhead withdrawals in the Dan Bernardino National Forest.

Sincerely,
Amanda Frye

Sent from my iPhone

Arrowhead Water

OIG audit 2008

Arrowhead Audit

■ Pre Fee Permit

– June 11, 1931

Forest Supervisor issues a letter to AH discussing water rights in Strawberry Creek and sharing that the USFS had intended to develop this water for forest use including recreation residences, but will issue a conduit for the transmission of the water across national forest. This letter also discusses water rights, although a complete description and copies of documents are not included.

A permit is then issued on the same day for the conduit.

Arrowhead Audit

■ Pre Fee Permit

- May 22, 1934

A permit is issued for Spring #7 and is in addition to the 1931 permit.

- July 30, 1959

An internal memo from the Forest Sup to the District Ranger states in condition 3 that the permit should continue to be free and the 2 permits should be consolidated into one.

Arrowhead Audit

■ Pre Fee Permit

- August 20, 1959

Forest Sup sends internal memo stating that a free use permit is invalid: right of way fees should be applied based on the value of the land

- 1960

GAO audits the USFS and demands that a terminable fee permit be issued

Arrowhead Audit

■ Development Era

- November 29, 1960

 - Terminable fee permit is issued

- April 20, 1964

 - Internal memo discusses the USFS lack of application for water rights in Strawberry Creek and our assumed binding to a 1931 court decision on adjudication (the decision does not identify adjudication although the language is similar) of the waters in Strawberry to Arrowhead.

Arrowhead Audit

■ Development Era

- May 7, 1964

OGC sends a letter to AH lawyers discussing the need for access across USFS land prior to applying for a water right through the state water resources board. (1st separation of water vs. surface rights)

Arrowhead Audit

■ Development Era

- May 7, 1964

OGC sends a letter to Arrowhead lawyers discussing the need for access across USFS land prior to applying for a water right through the state water resources board. (1st separation of water vs. surface rights)

Arrowhead Audit

■ Development Era

– June 22, 1964

Application is denied for additional water development in general area due to the proposal not being in national forest interest. The water being taken would not be “surplus to present & future public needs”. This letter also clarifies that this action is not related to or effectual to existing permits dating back to 1930. Acknowledges the USFS willingness to sustain existing points of collection.

Arrowhead Audit

■ Development Era

– July 7, 1964

Internal memo from Forest Supervisor discusses the basis of denial for expansion is not hydrological, but a public policy issue of making water available in the future for public instead of private uses.

Arrowhead Audit

■ Development Era

– November 2, 1977

Chief of the Forest Service clarifies to the public an inquiry about how water is appropriated in the 11 western states & that the Forest Service administers a permit for the occupancy land, not the value of water taken by Arrowhead.

Arrowhead Audit

■ Development Era

- January 26, 1978

Forest Lands Office sends a request to the Regional Forester for clarification on what type of fee structure the forest should be utilizing and for clarification on how to screen future proposals for expansion.

- August 8, 1978

A new 10 year Term Permit is issued (current permit)

Arrowhead Audit

■ Development Era

- August 3, 1979

Forest Supervisor sends Arrowhead a letter discussing the need to charge for the value of the use vs. the value of the land (Title 36 USC Sec. 251.3 (a)). No explanation is given for the current fee structure.

Arrowhead Audit

■ Development Era

- August 3, 1979

Forest Supervisor sends Arrowhead a letter discussing the need to charge for the value of the use vs. the value of the land (Title 36 USC Sec. 251.3 (a)). No explanation is given for the current fee structure.

Arrowhead Audit

■ Development Era

- November 26, 1985

Request for additional expansion of improvements is denied and the first time that the USFS need for water in Strawberry is identified for wildlife & riparian purposes.

- June 6, 1986

OIG audit takes place on the volume of water taken vs. cost of permit

Arrowhead Audit

■ Development Era

– July 25, 1988

Arrowhead sends District Lands Officer a letter discussing the continuance of the Terms & Conditions of expiring permit and acknowledgement that the permit is not going to be reissued due to the lack of staffing and time commitment.

Arrowhead Audit

■ Expired Permit Mgt.

- October 11, 1991

Application is denied to expand development of further water resources in the west fork of Strawberry Creek based upon impacts to riparian habitat.

- 1992

Existing improvements are maintained & upgraded

Arrowhead Audit

■ Expired Permit Mgt.

- February 3, 1993

 - Three Thousand feet of pipe is washed out via rock slides & flooding

- February 15, 1993

 - Authorization is granted to repair lines

- July 2, 1993

 - Authorization is granted to perform maintenance on existing wells.

Arrowhead Audit

■ Expired Permit Mgt.

– October 3, 1994

Application for a new well is denied, even though an existing well is proposed to be abandoned. Reasons include that water extraction levels on the Forest are believed to be at the maximum allowable.

Arrowhead Audit

■ Expired Permit Mgt.

- December 20, 1994

A FOIA request is received from LeBoeug, Lamb, Greene & MacRae for any documents relating to Arrowhead Puritas and affiliates.

Arrowhead Audit

■ Expired Permit Mgt.

– October 10, 1995

A legal opinion is given by LeBoeug, Lamb, Greene & MacRae informing the USFS that information submitted by Arrowhead in July 1994 concerning historical water flow data is proprietary and is not subject to FOIA

Arrowhead Audit

- Expired Permit Mgt.

- July 1998

b5 - attorney-client, b5 - deliberative process



Arrowhead Audit

■ Expired Permit Mgt.

– July 21, 1998

b5 - attorney-client, b5 - deliberative process



Verbal discussions with AH took place with the Forest Supervisor.

Arrowhead Audit

■ Expired Permit Mgt.

– December 21, 1998

Letter is sent by the District Ranger informing Arrowhead of Forest Service obligations under the Endangered Species Act including contacting the Forest prior to performing any ground disturbing activities.

Arrowhead Audit

- Expired Permit Mgt.

- 1999

- Studies to be a part of NEPA analysis are initiated for permit re-issuance purposes.

Arrowhead Audit

■ Expired Permit Mgt.

- January 9, 2003

Letter by Gene Zimmerman discussing permit expiration and the continued use of land according to the Terms & Conditions of the expired permit. This letter states that AH is currently in compliance.

- 2003

The pipeline is repaired from damages incurred during the Old Fire due to land sliding & flooding.