

From: Larry Lindsay
To: Peter Sagues
Date: 12/20/2006 2:38:05 PM
Subject: Re: A \$4100.00 Fine for the Vineyard Club

Peter,

You need to follow the guidance in the Administrative Civil Liability (ACL) and the Cease and Desist Order (CDO) as written. If Vineyard Club does request a hearing, please be sure to make it clear if the request is for a hearing on either or both the ACL and the CDO.

Larry

Charles L. Lindsay, Chief
Hearings Unit
Division of Water Rights

(916) 341-5358

>>> Peter Sagues <apsagues@sonic.net> 12/20/2006 1:51 PM >>>
Ref: 363:LL:262.0(49-44)
Letter from Victoria A. Whitney dated 11 December 2006
Plus enclosed Draft Cease and Desist Order and
Administrative Civil Liability Complaint (NO. 262.5-44

Dear Larry, Could you please help us with this matter. I am out of the country until March 1, 2007 and just received the attached communication from Victoria A. Whitney notifying us of a \$4100.00 fine.

My memory, with notes taken at the time, is that you made an inspection of the dam and water diversion with me as indicated below on May 4, 2005. During the inspection, you measured water flow bypassing the dam and found that it exceeded the minimum of .4 cfs, so we were not in violation of the your standards. We did not, however, have a specifically designed bypass device in place. You mentioned that current regulations require that we have a licensed engineer submit plans to your office before diverting water during the next season. I am quite certain that you did not order me to remove the existing dam, or even suggest that it would be a good idea for us to do so. If you had, we would have taken it out immediately. In fact, I have no written record of an inspection report or recommendations from you or your office following the inspection.

I called you on or about March 29, 2006 to ask if you had information about plans or photos you had offered to send me to help with designing an approved bypass system. You apologized for not getting the information to me. As I recall, you told me that small diversion projects such as the Vineyard Club use of Oak Flat Creek water were "on hold" until a decision could be reached by more senior Board personnel about enforcement. I believe that you said that the delay was due to questions of funding for the program overseeing the Vineyard Club diversion.

It seems to me that we at the Vineyard Club have made every effort to assure that we did not violate the Board's requirement of providing adequate water flow past our temporary dam. Since your inspection, I

have attempted to stay in touch with you regarding water diversion. We have not used, and do not plan to take any water from the creek until your office approves our plans. Can you offer any suggestions about what we can do to avoid this heavy fine without asking for a formal hearing? Thank you, Larry. Peter Sagues

P.S. I do have an outgoing phone line, so I could call you at a convenient time if you would like to talk this over. Please let me know what number to call, and the best date and time. Thanks, again. Peter

Begin forwarded message:

> From: "Ginny Gill" <ggill@geysermail.com>
> Date: December 20, 2006 12:07:19 PM CST
> To: "Jan Drayer" <jdrayer@geysermail.com>, "Peter Sagues" <apsagues@sonic.net>, "Bert Sandell" <bertsandell@earthlink.net>
> Subject: Very iimportant!
>
> We received this letter a few days ago - About the 14th or 15th.
>
> Jerry and I will be gone from today until the 28th so perhaps you can
> communicate among yourselves and let me know what I can do when we
> arrive home. I will be checking email.
>
> Seasons greetings! Bah Humbug!
>
> Ginny