

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2006-00XX-DWR

In the Matter of Unauthorized Diversion by the

The Vineyard Club Inc

Cease and Desist Order No. 262.31-14

SOURCE: Unnamed Streams tributary to Gill Creek thence Russian River

COUNTY: Sonoma County

The State Water Resources Control Board (State Water Board) is authorized under California Water Code section 1831 to issue a Cease and Desist Order (CDO) when it determines that any person is violating or threatening to violate any of the following:

- (1) The prohibition set forth in section 1052 against the diversion or use of water subject to division 2 (commencing with section 1000) of the Water Code other than as authorized by division 2.
- (2) Any term or condition of a permit, license, certification, or registration issued under division 2 of the Water Code.
- (3) Any decision or order of the board issued under part 2 (commencing with section 1200) of division 2 of the Water Code, section 275, or article 7 (commencing with section 13550) of chapter 7 of division 7 of the Water Code, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

On {DATE}, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the CDO against The Vineyard Club, Inc. (The Vineyard Club) for the violation and threatened violation of the prohibition against unauthorized diversion and use of water.

FACTS AND INFORMATION

The facts and information upon which this CDO is based are as follows:

1. License 12831 (Application 26224) was issued to The Vineyard Club on March 26, 1992. The license allows collection of 245 acre-feet per annum (afa) of water by 1) onstream storage at Vineyard Lake, and 2) diversion to storage from Oak Flat Creek, an offstream source, at a rate not to exceed 0.25 cubic foot per second (cfs). The diversion season is from October 1 to May 31 of the following year. The water is for recreation and fire protection uses.
2. License 12831 includes terms 40, 400 and 62 which state:

“After the initial filling of the reservoir, licensee's right under this license extends only to water necessary to keep the storage reservoir full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair.”

(000040)

“For the protection of fish and wildlife, the licensee shall bypass at the Oak Flat Creek diversion a minimum of 0.4 cubic foot per second, or the natural flow, whichever is less.”

(1400400)

“No water shall be diverted under this license unless licensee has installed a device in Oak Flat Creek, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this license. The measuring device shall be properly maintained.”

(0060062)

3. On May 4, 2005, Division staff conducted an on-site inspection of the project authorized under License 12831. Staff observed that Vineyard Lake was full with a slight amount of water flowing over the spillway. The diversion of water from Oak Flat Creek to offstream storage in Vineyard Lake was occurring at the rate of approximately 0.13 cfs. Staff also observed that a measuring device was not installed in Oak Flat Creek and there was no sign of a measuring device in the vicinity of the point of diversion that could have been installed.
4. The Agent for the Licensee was informed of the violation and advised that they should retain a registered engineer to design and certify proper installation of a measuring device.
5. Contact with the Licensee in the spring of 2006 resulted in the disclosure that a measuring device had not been designed or installed. However, according to the Licensee, water was not diverted from Oak Flat Creek during the 2005–06 diversion season.

IT IS HEREBY ORDERED, pursuant to sections 1831 through 1836 of the Water Code, that:

1. Commencing on the date of this Order, The Vineyard Club shall cease its violation of the terms of License 12831.
2. Within 90 days of the date of this Order, The Vineyard Club shall:
 - a) Submit documentation that a contract has been signed with a registered engineer to design and install a measuring device in Oak Flat Creek that will meet the approval of the State Water Board. The documentation shall also include a time schedule for installation of the device, including consideration of time to secure appropriate Sonoma County and Department of Fish and Game approvals; or,
 - b) Submit a request for removal of the point of diversion to offstream storage from Oak Flat Creek and amendment of License 12831. The request shall include a plan and time schedule to remove any existing diversion structure in Oak Flat Creek and at least 500 feet of the pipeline back from the point of diversion.

Upon the failure of any person to comply with a CDO issued by the State Water Board pursuant to chapter 12 of the Water Code (commencing with section 1825), the Attorney General, upon the request of the State Water Board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction. (Wat. Code, § 1845 subd. (a).) Any person or entity that violates a CDO issued pursuant to chapter 12 may be liable for a sum not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs. (Wat. Code, § 1845, subd. (b).) Civil liability may be imposed by the superior court or administratively by the State Water Board pursuant to Water Code section 1055.

STATE WATER RESOURCES CONTROL BOARD

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: