

Closing Brief for Mann Draft CDO and ACL Hearing

I am asking the SWRCB for the charges against me to be absolved due to the fact that this subject body of water is unique and provides benefits complimenting the long term goals of the very code I have been accused of violating.

It is clear to me that the governing body in this state has concern about the conservation and fair use of water and also the restoration of the habitat for all species throughout our region. The state spends millions to contend with this. My grandfather had this vision nearly 60 years ago to do his part by building this water storage and habitat at no cost to the state for the multitude of water fowl and wildlife species that live and migrate through our area. Furthermore, this site also provides for sediment reduction to the downstream aquaculture and immediate availability of water for wildfire suppression should the state or local volunteer fire fighters have a need in the community.

The field staff that did the survey and collect data for this subject site told my wife that all we needed to do was just file for a water right and monitor our use and all would be worked out. I did not understand from the beginning how I was diverting water and had a need for water rights when I do not irrigate or do any offsite storage of water as the originally written code was interpreted. The water in this reservoir is free to flow through at all times.

The data comparisons presented at the hearing by the prosecution team was irrelevant to our operation. They compared us on the water use level to intensified crops, orchards, vineyards, and dairy herds. Our grazing level averages one cow to 35 acres. The only pumping costs are for one small 3/4 hp house well that also fills corral troughs. Additional underground sources use solar or are artesian into troughs. Thus, pumping water is not an economical concern for us. Very few cows use the reservoir for supplemental use and fencing the cows away would be complicated to also allow all the wildlife free use which is important to us.

It was unfortunate that coincidentally I had attempted to haul some water to the top of the hill with my water truck for a short period around the time of the field inspection. I had not done this before and not only was it economically unsound choice on my part but since staff said we needed a water right to pump then I immediately ceased this procedure.

We strive to be compliant citizens contrary to what the evidence presented. My wife and I feel that education and outreach could have helped. I believe I have complied with all the requirements set forth by the state. This includes a fair estimate of water my cows drink from the reservoir. I feel the few cows that drink from the reservoir should have the legal right to the water they need from wherever it may be on the property and for this situation the monitoring requirement should be exempt. Certainly, I

have no complaints with sharing the water use by the wildlife which are under state jurisdiction and may use more water collectively than the cows. The most consuming and destructive of the wildlife is the pig of which there are scores.

Economic savings had great emphasis for the prosecution. However our cost savings from this reservoir are nil. Furthermore, our family is not seeking investment gain by this improvement either but rather to just be good stewards of the land.

We do not stand as adversaries to our neighbors on their use of the land with vineyard development and crops but feel the grazing of livestock and managing the forested areas has less impact to the region and also reduces the fire threat. We have labored for five generations and hoping to continue this on to more generations in the future. It is increasingly more difficult to do with the additional regulations, taxes and fees levied that keep adding to the work load/cost. It is obvious that deeded property is an easy prey to generate revenue.

I have stewardship of two additional properties due to no heirs and they have entrusted me to keep their land during my tenure 'as it was' until the younger generation family members discover contentment in caring for the land. . My generation left the land to seek higher and more ambitious goals but this trend is changing. The prosecution implied my property holdings prove my ability to pay. The evidence they presented spoke nothing of the liabilities nor do they understand that this land is not valued on what it is worth on the open market rather on how much it produces from the low impact use that we manage it under.

Typically, the drainage produces massive amounts of water in the winter and doesn't flow in the late summer and fall until the rains. Even during severe drought years the flow over the dam happens sometime in the early to late fall due to the uniqueness of the weather pattern locally. It is not unusual for this span of the coastal mountains for only a few miles to get over 100 inches in one rainy season.

The dam does not deprive fish or neighbors of water. The navigable stream channel for fish is a mile downstream. There has never been any neighboring concerns about our reservoir for the duration of its existence. We have attended local and regional meetings in the past with concerns focusing on conversion of land, commercial logging practices and chemical use of which does not apply to our operation.

The prosecution spoke of the high evaporative consumption of the reservoir. Doesn't this same evaporation happen as water travels over land and rocks during the dry and hot times of the year anyway? Regardless, water storage for summer months and especially for drought periods are certainly worth the brief interruption of flow downstream at the beginning of the rain season for what is provided for all species in the dry season. And indeed, this reservoir is filled quickly with the first major storm if not before.

Thank you for considering the facts on the contribution this unique reservoir provides to the mountains in northwest Sonoma County. Its existence does not detract from the needs of people or the natural surroundings. I ask for careful consideration to fulfill my request for exemption from water right requirements. A water right would only

encourage someone in the future to consider a more intensified industry which may not be in the best long term interest for all.

Sincerely,

Robert C. Mann