

FILE
29449

State Water Resources Control Board

CONTACT REPORT DIVISION OF WATER RIGHTS

SUBJECT: Application 29449

DATE: 11/14/00

TIME: 15:15

DIVISION PERSONNEL: Robert E. Miller, EAS

INDIVIDUAL (S) / AGENCY CONTACTED: Larry Allen
Circuit Prosecutor

TELEPHONE NUMBER: (530)226-0572

CONVERSATION DESCRIPTION:

LA returned my call from earlier today. I asked LA what the status of the case was: A Temporary Restraining Order (TRO) was issued b/c Cole was in violation of the law and irreparable damage was being done to Stanshaw. This was done to protect Warden Boyd for enforcing the action, and the warden then removed rocks to allow fish passage. A hearing was held and the court issued a Preliminary Injunction (PI) against Cole. Cole is allowed until November 18, 2000 to explain why a PI should not be imposed. So far, Cole has submitted documents unrelated to the citation, submitting only documents relating to his supposed pre-14 water right and his Application to Appropriate. A civil complaint has been filed, in which LA will seek permanent injunctive relief (permanent compliance), penalties ranging from \$25,000 to \$50,000, and may seek more payments for damages to the fishery. Cole has been working with Mr. Tocher, who is an attorney and the downstream water user and an acquaintance of LA, to resolve this case. Apparently Mr. Tocher has advised Cole to seek counsel more familiar with water right and environmental law. I told LA that is a good idea since Mr. Tocher does not seem familiar with these laws and will soon be under the scrutiny of the SWRCB since Tocher's diversion is unauthorized and illegal. LA will attend a case management conference in January 2001 and a status conference in June 2001 and predicts this case will go to court soon after that. LA then told me that I should be expecting a copy of the court documents shortly and that he will cc me on documents in the future.

I told LA that Cole seems very confused with this court process and I asked if it would be appropriate for me to tell Cole what I know about the case. He said it would be OK to tell Cole what LA is seeking, but that LA himself does not want to speak with Cole on the phone on this matter. LA has already spent a considerable amount of time discussing this issue with Mr. Tocher and that all of Cole's questions should be directed to Cole's counsel.

← COLE RETURNED MY CALL ON THE MORNING OF 11-15-00 AND I TOLD HIM THIS.

ACTION ITEMS: Call Cole and tell him that the SWRCB will not try to get him out of this case, tell him what LA will be seeking, and that any other matter on this injunction should be directed to his counsel.

SURNAME	REM 11-15-00			
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