

Subject: RE: Vineyard Club Bypass Measuring

Date: Wednesday, January 17, 2007 4:12 PM

From: Bert Sandell <bertsandell@earthlink.net>

To: 'John O'Hagan' <JOHAGAN@waterboards.ca.gov>

Mr. O'Hagan,

Message received. Thank you.

Best Regards,

Bert Sandell

-----Original Message-----

From: John O'Hagan [mailto:JOHAGAN@waterboards.ca.gov]

Sent: Wednesday, January 17, 2007 3:50 PM

To: bertsandell@earthlink.net

Subject: RE: Vineyard Club Bypass Measuring

Mr. Sandell,

I disagree that the enforcement is a separate matter. Please note that the draft Cease and Desist Order (CDO) requires Vineyard Club within 90 days to:

"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..."

Because the Vineyard Club requested a hearing on the draft CDO and ACL, the determination of a measuring device that meets the approval of the State Water Board may now be determined by the Board from hearing evidence. We have provided you with ideas for possible compliance but Division staff cannot design the system. The Division also does not maintain a list of examples of acceptable measuring devices because projects have different requirements. For design assistance, you should consult an engineer. Check our website at:

www.waterrights.ca.gov for the Consultant List of engineers who are familiar with stream flow measuring devices.

John O'Hagan, Chief
Enforcement Section
Division of Water Rights
(916) 341-5368
Fax (916) 341-5400

johagan@waterboards.ca.gov

>>> "Bert Sandell" <bertsandell@earthlink.net> 1/17/2007 8:46 AM >>>
Mr. Hagan,

Thank you for your response. I view the hearing request on the ACL and the CDO as completely separate from trying to determine what the State wants on a go-forward basis as far as an acceptable measuring device / bypass opening. Our real goal here is to meet the requirements of our permit. Might it be possible for somebody in your organization to provide a specific example of such a mechanism that has been accepted in the past so that it can be used as a guideline with a professional engineer that we engage?

Thanks Again & Best Regards,

Bert Sandell

-----Original Message-----

From: John O'Hagan [mailto:JOHAGAN@waterboards.ca.gov]
Sent: Tuesday, January 16, 2007 12:45 PM
To: bertsandell@earthlink.net
Cc: Larry Lindsay; Mark Stretars
Subject: Re: Vineyard Club Bypass Measuring

Mr. Sandell,

I received a copy of your email to Larry Lindsay concerning approval of your compliance plan. Mr. Lindsay's last email correctly stated that you should consult with a professional engineer and submit your plan by letter. This letter must be addressed specifically to the Division Chief who is the only one with the authority to approve or reject the plan. Division staff, like Larry, does not have such authority. In addition, I directed Larry to discontinue communication with you while we are preparing testimony for the hearing requested by Vineyard Club. Unless this matter is resolved by your payment of the ACL and retraction of the hearing request on the ACL and CDO, it is not proper for Larry, myself or other members of the prosecution team to give you advise at this time.

Thank you for your cooperation.

John O'Hagan, Chief
Enforcement Section
Division of Water Rights
(916) 341-5368
Fax (916) 341-5400

johagan@waterboards.ca.gov

>>> "Bert Sandell" <bertsandell@earthlink.net> 1/12/2007 1:37 PM >>>
Mr. Lindsay,

Thank you once again for your input on the measuring device / bypass opening for the Vineyard Club's water diversion permit. I appreciate your concern about getting too involved with the project. I also understand that the State's interest is in making sure there is sufficient bypass flow, not in helping design a specific system.

I am confident that our design as presented will achieve the required bypass flow. However, I also did some research and found that we could purchase a hand-held flow meter at an affordable price to measure the output from the Bypass Opening. I have therefore modified the language in the attached Compliance Plan to reflect a procedure for field measurement of the Bypass Opening. As you will see, the language has been changed as follows (the new applicable language is highlighted in red):

1. The measuring device / bypass opening, as described in the attached EXHIBIT A, shall be installed each season as part of the temporary dam installation. At the time of installation, and whenever requested by a State Water Resources Control Board representative, a physical flow test will be performed by a Vineyard Club representative using a hand held flow meter to demonstrate that the Bypass Opening is allowing a minimum of .4 cubic feet per second of bypass flow when water is being diverted.

2. The dam shall be inspected and flow tested with a hand held flow meter at least monthly during all periods of operation to ensure that the Bypass Opening remains clear of debris and is fully operational. All such inspections shall be noted in a log maintained by representatives of The Vineyard Club. This log will be presented to a State Water Resources Control Board representative upon request.

Under the attached written Compliance Plan (that includes that above language), The Vineyard Club is responsible for ensuring that the required bypass flow is available at all times when water is being diverted.

Please let me know if the attached Compliance Plan is acceptable. From your earlier correspondence, I understand that you have changed jobs. Therefore, please let me know if I should direct this proposal to another individual within the State Water Resources Control Board.

Thank You & Best Regards,

Bert Sandell

(on behalf of The Vineyard Club)