

Subject: Re: Vineyard Club

Date: Thursday, March 8, 2007 4:15 PM

From: Matthew Bullock <MBullock@waterboards.ca.gov>

To: <dkelly@lawssd.com>

Mr. Kelly,

The letter in question was never a part of the Vineyard Club file. It was a generic letter sent out to all the parties on the mailing list. That is to say that it was not "removed" from the file because it was never part of the file. It is for this reason that it was not included previously. As soon as we realized that this letter (which your client has had a copy of for nearly two years) existed and may be relevant to your client, we immediately forwarded it to you. I have spoken with staff, and they assure me that there is no other documentation related to license 12831.

There are of course numerous emails between staff and myself as legal counsel pertaining to this enforcement action. These are not part of the file on license 12831 and you are in no way privy to them. Despite this fact, following is a log of emails. If you think you are entitled to more information, I would request that you also send the corresponding information regarding communication between yourself and your client.

Emails from staff to legal counsel:

- 9/1/06
- 9/1/06
- 9/14/06
- 12/20/06
- 12/20/06
- 12/20/06
- 1/4/07
- 1/4/07
- 1/11/07
- 1/11/07
- 1/24/07
- 1/24/07
- 2/1/07
- 2/1/07
- 2/1/07
- 2/1/07
- 2/6/07
- 2/8/07
- 2/9/07
- 2/9/07
- 2/14/07
- 2/14/07
- 2/15/07
- 2/20/07
- 2/21/07
- 2/21/07
- 2/23/07
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- 2/23/07
- 2/27/07
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Emails from legal counsel to staff

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With respect to your request for "all information related in any way to all inspections conducted in the Russian River watershed in accordance with this notice," that information is of public record and is freely available to you in the file room during regular business hours.

I trust this resolves the issue.
Matt

Matthew G. Bullock
Staff Counsel

State Water Resources Control Board
1001 I St.
Sacramento, CA 95812

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MBullock@waterboards.ca.gov
telephone: (916) 341-5164
fax: (916) 341-5199

>>> Dan Kelly <dkelly@lawssd.com> 3/8/2007 11:22 AM >>>
Mr. Bullock:

Thank you for forwarding the letter. On February 23, 2007, I sent you an e-mail as follows:

>>>> >>> Dan Kelly <dkelly@lawssd.com> 2/23/2007 11:00 AM >>>

> Matt:

>

> Did the "file," which was comprised of two separate folders indexed
> chronologically, include everything the SWRCB, including the enforcement
> team, has with regard to the Vineyard Club's water right? In other words,
> is there anything missing from the file? If anything was removed, I would
> ask that I be provided a copy or, if a privilege is asserted with regard to
> any material, I ask that you provide me with a privilege log.

>

> Regards,
> -Dan

The same day, you responded:

> Dan,

> I double checked with staff. The only thing not in the file is a small number
> of emails between myself and the Division which would be squarely covered by
> attorney-client.

>

> Regards,
> Matt

The receipt of this letter - just a couple of days from the date Exhibits and testimony are due, raises serious concern that the SWRCB, and particularly the Prosecution Team, may not have provided the Vineyard Club with access to everything in, or should be in, the Club's water right file.

In any event - and now that I have learned of the Division's "enforcement sweep," I would like all information related in any way to all inspections conducted in the Russian River watershed in accordance with this notice. I also again request that you provide me with all information the SWRCB has regarding the Vineyard Club's water right, the May 2005 inspection, the Inspection report, and the CDO and ACL, whether the Prosecution Team believes it is relevant or not. In order to be certain the Vineyard Club receives adequate time to prepare, as due process requires, I request you provide me this information by the close of business today.

In addition - I would like a privilege log of anything you are withholding,

whether e-mail communications or otherwise, so that it is part of the record.

Thank you.
-Dan Kelly

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On 3/8/07 10:49 AM, "Matthew Bullock" <MBullock@waterboards.ca.gov> wrote:

> Dan,
> Please find attached a document relating to Vineyard Club. It is a letter
> that went out to all Permittees and Licensees in the Russian River watershed
> in Sonoma County, including Vineyard Club (see mailing list, page 7 of the
> document). A copy was not placed in every file for the whole region, so it
> was not in the Vineyard Club file and we just realized that it was relevant to
> your client. Your client was mailed a copy of this letter before the
> inspection. If you have any questions, feel free to contact me.
>
> Regards,
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>
>
> Matthew G. Bullock
> Staff Counsel
> State Water Resources Control Board
> 1001 I St.
> Sacramento, CA 95812
>
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