

Merritt, Allen

From: Peppersack, Jeff
Sent: Thursday, October 11, 2012 1:49 PM
To: Merritt, Allen
Cc: Keen, Shelley
Subject: RE: Petition for Reconsideration- 37-22354

We spoke. I wouldn't deny the petition, because it's not a valid petition. BU rules provide for a waiver, but we could wait until licensing to provide the waiver. I agree, they need to provide justification and demonstrate how they will address diversion at times when water in Indian Creek may not be sufficient. Should probably get watermaster input.

Jeff

From: Merritt, Allen
Sent: Thursday, October 11, 2012 1:21 PM
To: Merritt, Allen; Keen, Shelley; Peppersack, Jeff
Subject: RE: Petition for Reconsideration- 37-22354

Jeff and Shelley,

After talking with Jeff this morning I called Zack back and told him that the petition was late but there may be a possibility of the Director issuing an amended order for a short period after it became final. I told him that the Director does not have sufficient information why the measuring device or rated section on Indian Creek is not warranted so we need something to justify an amended approval. He indicated that Brockway Sr. was already working on something to be submitted and would do so in the next day or so.

He requested that I respond in an e-mail but I avoided committing to that. I told him I could respond by issuing a denial of the petition but would rather them submit some reason for changing a measuring condition. I told him we might consider it a request for waiver of the measuring device.

He indicated he would send the information to me.

Have you two had a chance to talk yet? I'm not clear exactly how we should respond.

Allen

From: Merritt, Allen
Sent: Wednesday, October 10, 2012 5:06 PM
To: Keen, Shelley; Peppersack, Jeff
Subject: FW: Petition for Reconsideration- 37-22354

We need to discuss this petition.

From: Zach Latham [<mailto:zach.latham@brockwayeng.com>]
Sent: Wednesday, October 10, 2012 5:01 PM
To: Merritt, Allen
Cc: Charles E. Brockway
Subject: Petition for Reconsideration- 37-22354

Allen-

Regarding permit 37-22354, we intend to file for a waiver for a portion of condition #9 to waive the requirement to measure the total flow in Indian Creek at the point of diversion listed on the permit. This email serves as a petition for reconsideration, which we hope you will accept. Please give me a call or email with comments or questions, thanks.

Zach Latham

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All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.