

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application )  
24653 )  
DONALD A. AND ANNE P. LONG )  
Applicants )  
ROBERT B. LONG, ET AL., )  
Protestants )

ORDER: WR 80-15  
SOURCE: Unnamed Stream  
COUNTY: Napa

ORDER DENYING PETITION FOR RECONSIDERATION  
DECISION 1561

On June 19, 1980, the State Water Resources Control Board adopted Water Rights Decision 1561, approving Application 24653 in part and ordering issuance of a permit. On July 17, 1980, a petition for reconsideration of Decision 1561 was filed by Donald A. and Anne P. Long (Applicant). The grounds cited by the Applicant as basis for reconsideration all relate to the unresolved question of ownership of the land at Diversion Point No. 1 specified in Application 24653.

Petitioner indicates that there is no substantial evidence to support a finding that the petitioner is without right of way. The Board concurs that there is no substantial evidence to make a finding either adverse or favorable to petitioner.

Petitioner alleges that he could not supply relevant evidence to support his position because there was no hearing. Petitioner ignores the fact that any evidence available could have been supplied during the proceedings in lieu of hearing and can now be supplied under the present conditions of Decision 1561.

Petitioner alleges that the Board is without authority to act upon a boundary line dispute. The Board concurs. The Board cannot and will not undertake

to determine title to real property. (See Section 749 of the Board's regulations, Title 23, California Administrative Code, Chapter 3, Subchapter 2). However, under the public interest authority the Board may require reasonable assurance that its decisions will not aggravate disputes or keep alive consideration of projects which will be barred from proceeding for reasons outside the Board's jurisdiction.

In a declaration attached to the petition, petitioners attorney alleges that a California Certified Surveyor can testify in support of his position at future proceedings. No further proceedings before the Board are needed inasmuch as the required information can be supplied under the terms of Decision 1561. If, after submission of applicant's documentation and review by the protestants who claim title to the proposed point of diversion, there is any remaining dispute as to the applicant's right of access, this dispute will have to be settled by submission of a copy of a final judicial determination of applicant's title or right to occupy or use the property in dispute. (See Section 749 of the Board's regulations cited previously).

IT IS HEREBY ORDERED that the petition for reconsideration of Decision 1561 is denied.

Dated: August 7, 1980

/S/ CARLA M. BARD  
Carla M. Bard, Chairwoman

ABSENT  
William J. Miller, Vice-Chairman

/S/ L. L. MITCHELL  
L. L. Mitchell, Member

ABSTAINED  
Jill B. Dunlap, Member

/S/ F. K. ALJIBURY  
F. K. Aljibury, Member