

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 99 - 07

In the Matter of Temporary Application No. X00 133,
ROBERT FETZER,
Applicant and Petitioner,
for Reconsideration.

SOURCE: Russian River

COUNTY: Mendocino

ORDER DENYING **RECONSIDERATION**
OF DECISION REJECTING APPLICATION

1.0 BACKGROUND

On May 3, 1999, the Chief of the Division of Water Rights (Division Chief), pursuant to his delegations of authority under State Water Resources Control Board (SWRCB) Resolution No. 99-03 1, sent a letter to the Petitioner's attorney, taking action on ten water right applications that had been submitted but not yet accepted as complete by the Division. The Division Chief rejected one of the ten applications and accepted the remaining nine applications for further processing. The rejected application had been given a temporary file number of X00 133. Petitioner seeks reconsideration of the action rejecting temporary application number X00 133.

The Division Chiefs May 3, 1999, letter advised the Petitioner, through his attorney, that if the Petitioner disagreed with the decision to reject temporary application number X00 133, he could file a petition for reconsideration with the SWRCB within 30 days from the date of the letter. The 30-day time limit is established by statute, at Water Code section 1122, which provides:

“The board may order a reconsideration of all or part of a decision or order on the board's own motion or on the filing of a petition of any interested person. The petition shall be filed not later than 30 days from the date on which the board adopts a decision or order. The authority of the board to

order a reconsideration on its own motion shall expire 30 days after it has adopted a decision or order. The board shall order or deny reconsideration on a petition therefor not later than 90 days from the date on which the board adopts the decision or order.”

Under section 1122, any petition for reconsideration was due on June 2, 1999. On May 7, 1999, after receiving the Division Chiefs letter, the Petitioner’s attorney telephoned the staff engineer in the Division of Water Rights assigned to the applications and asked for a time extension.’ The staff engineer prepared a telephone contact report dated May 7, 1999, saying that he had orally granted a time extension until July 2, 1999. The Petitioner’s attorney then sent the staff engineer two letters, dated May 7 and 10, requesting an extension of time. The letters do not indicate that any other person at the SWRCB’ was sent a copy of the letters, nor do they indicate that they are confirming an extension of time that was granted. The staff engineer received and filed the letters, but did not respond to the letters. On June 24, 1999, Petitioner’s attorney faxed a letter to the SWRCB petitioning for reconsideration and requesting a hearing. The petition for reconsideration cites the May 7 and 10, 1999, letters as the grounds for a time extension.

On August 4, 1999, the SWRCB held a public workshop on the petition for reconsideration. The Petitioner presented his arguments to the SWRCB members. Other parties also addressed the SWRCB on this item.

2.0 DISPOSITION OF PETITION FOR RECONSIDERATION

2.1 In General, SWRCB Reconsideration Of Staff Decisions Is Available

Pursuant to S WRCB Resolution No. 99-03 1, paragraph 3.2.1.3, the SWRCB has delegated authority to the Division Chief to reject and cancel a defective-application that has not been perfected after the SWRCB has allowed 60 days or more to file an amended and perfected application. Under the delegation, the Division Chief acts for the SWRCB by exercising the authority of the SWRCB. In other words, an action of the Division Chief, pursuant to the

¹ The May 3, 1999 letter advises the Petitioner’s attorney that questions could be directed to either the staff engineer or the staff counsel assigned to the matter.

delegation, is an action of the SWRCB. Since the Division Chiefs decision is a decision of the SWRCB, the SWRCB has the power to reconsider it in accordance with Water Code section 1 122.² The SWRCB has not delegated to the Division Chief the authority to reconsider the actions delegated to the Division Chief. Consequently, the timely filing of a petition for reconsideration makes available a higher level of review -- by the Board itself -- of an action taken by SWRCB staff.

2 . 2 Assuming the Petition Was Timely Filed, Petitioner Provides No Basis for Holding An Evidentiary Hearing

As provided below, the petition was untimely filed, and consequently the SWRCB cannot undertake a valid reconsideration of the action taken on its behalf by the Division Chief. Nevertheless, the SWRCB makes the following findings in sections 2.2 and 2.3 to set forth its interpretation of the water right permits involved, as well as to establish that even if the elements of an equitable estoppel were present, reconsideration is denied. These findings show that the balance of equities under the equitable estoppel theory advanced by Petitioner favor denying reconsideration.

The SWRCB's regulation, at California Code of Regulations, title 23, section 768, lists four causes upon which an interested person may petition the SWRCB for reconsideration of an SWRCB decision or order. These are:

1. Irregularity in the proceedings, or any ruling, or abuse of discretion, by which the person was prevented from having a fair hearing;
2. The decision or order is not supported by substantial evidence;
3. There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced; and
4. Error in law.

Apparently Petitioner is arguing that the Division Chiefs decision contains an error in law. The entire petition for reconsideration consists of legal argument concerning the Division Chief's

² SWRCB Orders WR 95-9, 9.5-1 8, and 96-05 address petitions for reconsideration of decisions made by the Chief of the Division of Water Rights.

interpretation of permits 12949 and 12950, held by the Sonoma County Water Agency.

Petitioner argues that he should be allowed to appropriate water currently appropriated under permits 12949 and 12950, with a point of diversion from the Russian River. The basis of this argument is the language of term 13 in each of the two permits. Although Petitioner asks for a hearing, the petition does not present any disputed issue of material fact or list any evidence that petitioner would offer in a hearing. Instead, Petitioner seeks to make legal arguments before the SWRCB. Accordingly, no evidentiary hearing is needed, and the legal arguments set forth in the petition for reconsideration, together with Petitioner's and/or his attorney's oral statements at the Board meeting at which this order is considered, will satisfy Petitioner's request to be heard.

2.3 Even Assuming the Petition Had Been Timely Filed, the Petition Would be Denied Because the Division Chiefs Decision is Correct

A substantial amount of water is imported into the East Fork Russian River through a power tunnel from the Eel River. This water is commingled with water in the East Fork Russian River in Potter Valley and then flows into a reservoir formed by Coyote Valley Dam. Below Coyote Valley Dam, the East Fork Russian River joins the West Fork Russian River to form the mainstem Russian River. A number of tributaries flow into the mainstem Russian River below the two forks. (See Figure 1.)

SWRCB Decision 1030 (D 1030), adopted on August 17, 1961, approved a set of applications filed by the City of Ukiah, Sonoma County Water Agency (SCWA) and Mendocino County Russian River Flood Control and Water Conservation Improvement District (Improvement District), to appropriate water from the Russian River and East Fork Russian River, including storing water at Coyote Valley Dam. D 1030 included approval of a water supply project by SCWA and Improvement District to divert water from the Russian River and put it to beneficial use for the development of the Russian River Valley and nearby areas. A substantial part of the water appropriated at Coyote Valley Dam originates in the Eel River.

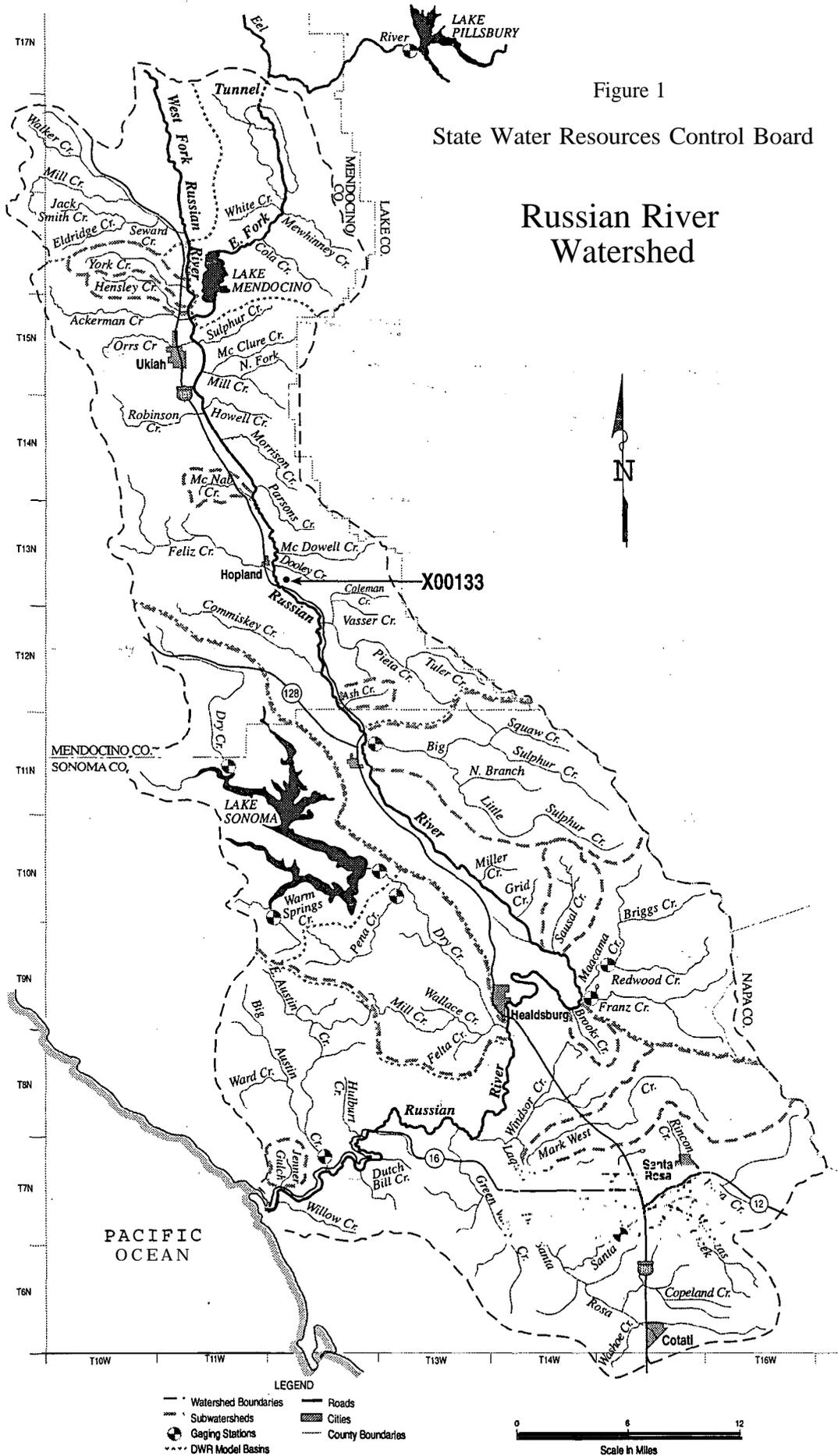


Figure 1

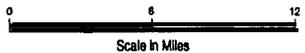
State Water Resources Control Board

Russian River Watershed

PACIFIC OCEAN

LEGEND

- Watershed Boundaries
- - - Subwatersheds
- Gaging Stations
- DWR Model Basins
- Roads
- Cities
- County Boundaries



MAP 0050A

The water rights for Coyote Valley Dam, which forms Lake Mendocino, are embodied in permits 12947A and 12947B, held by SCWA and the Improvement District, respectively. These permits are not involved in the petition for reconsideration discussed in this order, but a summary of these permits is helpful to put the water rights for the Russian River water supply project under D 1030 into context. Permits 12947A and 12947B authorize diversion and use of water only from the East Fork Russian River. The two agencies jointly store water in the reservoir, up to 122,500 acre-feet per annum (afa). Under permit 12947B, the Improvement District can take up to 8,000 afa of yield from the reservoir measured as consumptive use. Under permit 12947A, SCWA and purchasers of water from SCWA can take the balance of the yield currently authorized for use. Permits 12947A and 12947B are subject to a number of reservations of water for other water users. The reservations provide water for (1) new water rights for water that has been beneficially used continuously within either the Improvement District's service area or the Russian River Valley in Sonoma County since prior to January 28, 1949; (2) depletion by consumptive use of water appropriated under the permits, up to 8,000 afa in the Improvement District's service area; (3) permits up to 10,000 afa of diversions for beneficial use within the Russian River Valley in Sonoma County; (4) permits in Potter Valley, which is upstream of Lake Mendocino; (5) instream flows for fish; (6) claims under the County of Origin statute.

Permits 12949 and 12950, which contain the term 13 reservation, were issued to SCWA, alone. Under permits 12949 and 12950, SCWA diverts uncontrolled flows of water out of the mainstem Russian River in Sonoma County. These permits allow for diversion of water that originates in the watershed of the Russian River, including its tributaries. Term 13 of permits 12949 and 12950 authorizes new water users in the watersheds tributary to the Russian River to obtain permits to appropriate water, with priority over permits 12949 and 12950. Except for Potter Valley, the watersheds tributary to the Russian River are not located where they can receive Eel River water.

D 1030 authorized all of the above permits. The terms in these permits must be read together, as was intended when D 1030 was adopted. Reading the terms in one permit outside of the context of the entire decision could cause a misinterpretation of the Board's intention.

2.3.1 Petitioner's Argument, in Context

Petitioner takes issue with the Division Chiefs decision that temporary application X00 133, which specifies a point of diversion from the Russian River and a place of use adjacent to the river, is not acceptable. The Division Chiefs decision is based on the fact that the season of diversion requested in application X00133 conflicts with the season when water in the Russian River is fully appropriated, as determined in the SWRCB's Declaration of Fully Appropriated Stream Systems (Declaration) (SWRCB Order WR 98-08). When the Declaration states that water is fully appropriated during a season of the year, the SWRCB cannot accept an application if the application seeks water from the fully appropriated source during the season. After Petitioner submitted temporary application X00133 to the SWRCB, the Division of Water Rights gave Petitioner several opportunities to amend the application to change the proposed season of diversion. Petitioner did not do so.

Petitioner makes two substantive arguments in support of the acceptability of temporary application X001 33 notwithstanding the Declaration. First, Petitioner argues that the Division Chief and the S WRCB's legal staff are misconstruing permit term 13 in water right permits 12949 and 12950 held by Sonoma County Water Agency (SCWA). Second, Petitioner argues that he has a right, under Water Code section 10505, to obtain a permit to appropriate water from the mainstem of the Russian River with a priority senior to permits 12949 and 12950.

Petitioner argues that the SWRCB should accept his application for processing pursuant to term 13 of permits 12949 and 12950, and that any resulting permit should take water away from those permits. Under this argument, Petitioner would have water available to him under a direct diversion right at the expense of Sonoma County Water Agency, the holder of permits 12949 and 12950. Permits 12949 and 12950 authorize Sonoma County Water Agency to appropriate water from the Russian River by direct diversion. Permit 12949 allows diversions up to 20 cubic feet per second (cfs) between January 1 and December 31 of each year. Permit 12950 allows diversions up to 60 cfs between April 1 and September 30 of each year. Term 13 of permits 12949 and 12950 provides as follows:

“This permit is subject to appropriations of water by others, whether under rights acquired prior or subsequent to February 18, 1954 (the date of filing Applications 15736 and 15737), for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam.”

Both permits were approved in SWRCB Decision 1030 on August 17, 1961. That decision approved several applications to appropriate water from the Russian River by direct diversion and by storage, including applications to store water in Lake Mendocino at Coyote Valley Dam. A substantial portion of the water appropriated under Decision 1030 is imported into the East Fork Russian River from the Eel River through a power tunnel, and does not originate in the Russian River. The water appropriated under permits 12949 and 12950 (Applications 15736 and 15737), however, originates primarily in the watershed of the Russian River. Decision 1030 contains the following finding at page 36:

“Although, as indicated earlier in this decision, Applications 15736 and 15737 should be approved in order to permit greater flexibility in project operations, the record clearly demonstrates that Sonoma District’s share of the yield of the project under Applications 12919A and 12920A³ should meet its requirements for many years to come. It would not be in the public interest to allow the Sonoma District by virtue of permits issued pursuant to Applications 15736 and 15737 to interfere with development by others in Potter Valley or in other watersheds tributary to the Russian River. Therefore, permits will be issued pursuant to these applications subject to appropriations by prior or subsequent appropriators for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam.”

2.3.2 The County of Origin Law Does Not Apply to Permits 12949 and 12950

As stated above, Petitioner argues that he has a right, under Water Code section 10505, to obtain a permit to appropriate water from the mainstem of the Russian River with a priority senior to permits 12949 and 12950. Permits 12949 and 12950, however, are not based on

³Permits 12949 and 12950 were issued pursuant to the approval of Applications 15736 and 15737. Applications 12919A and 12920A are state-filed applications, and the permits issued on them allow storage of water from the Eel River and from the East Fork Russian River in Lake Mendocino.

state-filed applications that would be subject to the county of origin laws (Water Code §§ 10505, 10505.5). Nor are they subject to either of the watershed or area of origin laws (Water Code §§ 11460-1 1463, 1215-1222). Consequently, these statutes are not the correct basis for arguing that water is reserved.

As a substitute for area of origin protections, the SWRCB has conditioned these permits to provide protection to water users within parts of the Russian River watershed that is similar to the protections against export of water afforded under state-filed applications. Significant portions of the water appropriated by SCWA are used outside the county or watershed where it originated. Some of the water is used as far away as Marin County. Term 13 is consistent with policy evident in a number of SWRCB decisions to the effect that water originating in a watershed or county should first be available for use within its county or watershed of origin. Under term 13, to the extent that water is present in the tributary watersheds and is not reserved for instream beneficial uses, it can be appropriated by water users for use within the tributary watersheds. As explained in Decision 1030, the natural runoff from the watershed of the Russian River decreases rapidly after the conclusion of the spring rains and becomes virtually nonexistent during the late summer and fall months. (Page 8, D 1030.) Term 13 does not reserve water imported from the Eel River, since that water flows only in the East Fork Russian River and in the mainstem, and is never physically present in the other tributary watersheds.

2.3.3 Points of Diversion Under Term 13

Quoting from term 13 and from the second sentence of the above paragraph, Petitioner argues that term 13 should be read to mean that it reserves water for appropriation and use anywhere in the Russian River watershed. In particular, Petitioner argues that he should be allowed to divert water under term 13 from the mainstem Russian River.⁴ In support of this argument, Petitioner

⁴ Petitioner argues that the water appropriated by SCWA under permits 12949 and 12950 should be “reallocated” to him. This terminology is confusing, since the Water Code does not use this term. The SWRCB construes Petitioner’s argument as meaning that Petitioner is seeking a new water right permit that would have priority over permits 12949 and 12950, but would not have priority over permits held by other water right holders who have received permits based on applications filed before Petitioner’s application.

argues that term 13 addresses the place where the water can be used, not the place where it can be diverted. Petitioner further argues that term 13 addresses all the land in the Russian River watershed, not just land in the watersheds of streams tributary to the mainstem Russian River.⁵

There are two problems with Petitioner's argument. First, term 13 could have been worded much more briefly if it were intended to reserve water for diversion and use anywhere in the watershed. If the argument were correct, term 13 would not need to specify that the reservation is "for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam." Instead, it could have stated "for beneficial use within the watershed of the Russian River."

Second, Decision 1030, when it approved SCWA's overall project (including the other applications by SCWA and the Improvement District to appropriate water) distinguished between reservations of water from the mainstem Russian River and from the tributaries. Under Decision 1030, other permits were issued to SCWA that reserve water for appropriations from the mainstem Russian River. Thus, the overall project allows for in-watershed appropriations up to specified amounts from the mainstem in Mendocino County and in Sonoma County. As explained in the Division Chiefs May 3, 1999 letter, some water may still be available to Petitioner under the allocation for use in Mendocino County downstream from Coyote Valley Dam.

Term 13 must be read in the context of all the actions taken in D 1030. Term 13 reserves water naturally produced in the watersheds tributary to the Russian River for use within those watersheds. The tributaries typically dry up during the summer, since they are dependent on rainfall. Water from the tributaries that reaches the mainstem Russian River is commingled with imported water, and cannot be accounted for separately from the imported water to which Sonoma County Water Agency has rights.⁶ Instead of giving users of water from the mainstem

⁵ The place of use of petitioner's temporary application X00 133 is adjacent to the mainstem Russian River.

⁶ An appropriator of water diverting from the mainstem would not stop diverting when a related tributary dried up, since there would be stored or imported water flowing in the mainstem. When the tributaries dry up, the water in
(Footnote continued next page)

priority under term 13, D 1030 reserves specific amounts of water for in-basin use by diverters from the mainstem of the Russian River. This reservation is made in other permits which were simultaneously issued to SCWA. The reservations from the mainstem in the other permits benefit water users such as Petitioner along the mainstem of the Russian River in Sonoma and Mendocino Counties.

The Petitioner's reading of term 13 not only misconstrues the Board's intent regarding this term, but would make irrelevant the specific reservations of flows in the mainstem of the Russian River set forth in Decision 1030. Under Petitioner's reading, there would be no effective limit on new appropriations that divert water from the mainstem of the Russian River in Mendocino County.

2.3.4 *Summary*

Based on the foregoing, the SWRCB finds that only water attributable to flows from the tributary watersheds of the Russian River is reserved under term 13. With the exception of water in Potter Valley (East Fork Russian River) upstream of Coyote Dam, this is entirely natural flow originating in the tributary watersheds. In Potter Valley, the natural flow is commingled with imported water. As a practical matter, water cannot be attributed to a tributary unless it is diverted from the tributary when water is flowing therein. Accordingly, the SWRCB construes term 13 as requiring that water appropriated under this provision must be diverted from a tributary watershed of the mainstem Russian River for beneficial use within the tributary watershed. It should be noted, however, that such water can be appropriated only when water is present in the tributary and not required by senior water users in the tributary watershed or by instream beneficial uses. Fishery requirements could impact the ability to divert the water from the tributaries even during times when it is present and not required by senior water right holders.

the Russian River is coming from the Eel River and from storage on the East Fork Russian River, and is not available under term 13.

2.4 The SWRCB Lacks Statutory Authority to Accept An Untimely Petition for Reconsideration and Estoppel Does not Apply

2.4.1 Statutory Provisions

As set forth above, Water Code section 1122 requires that petitions for reconsideration be filed no later than 30 days from the date of the decision. Further, section 1122 provides that the SWRCB's authority to order reconsideration on its own motion expires after 30 days. There is no provision that allows extensions of the time to file a petition for reconsideration.

The staff engineer's contact report indicating he had granted a time extension does not constitute an order granting reconsideration. Further, no authorization exists, either in the statute, the SWRCB's regulations, or in any delegation of authority for a staff engineer in the Division of Water Rights to grant either reconsideration or an extension of time to file a petition for reconsideration by the SWRCB. It does not appear that Petitioner relied on any oral time extension by the staff engineer, since Petitioner's attorney submitted two letters after talking to the staff engineer, requesting an extension of time.

Because it was submitted late, Petitioner's intended petition for reconsideration cannot be considered because it was not timely filed. By the time the SWRCB received it, the SWRCB's statutory authority to order reconsideration on its own motion had expired. Once an agency has rendered a decision, it may not reconsider that decision unless a statute permits reconsideration. (*Olive Proration Program Comm. v. Agricultural Prorate Comm'n* (194 1) 17 Cal.2d 204,209 [109 P.2d 918]; *Azadigian v. Workers' Compensation Appeals Board* (1992) 7 Cal.App.4th 372, 378-379 [8 Cal.Rptr. 2d 643].)⁷ This conclusion is supported by additional case law interpreting Government Code section 11521, which is similar to section 1122. The case law interpreting Government Code section 11521 follows the above principle that an agency has authority to

⁷ The SWRCB may reexamine terms and conditions in a previously issued permit if it reserved jurisdiction when it issued the permit or may exercise continuing authority over the diversion and use of water under an existing water right. (See generally *United States v. SWRCB* (1986) 182 Cal.App.3d 82, 127-130, 149-151 [227 Cal.Rptr. 161, 185-188, 200-202].) Under its reserved jurisdiction and continuing authority, the SWRCB has the power to modify a water right permit or license, even after the decision or order approving the permit or license has become final. (*Ibid.*) This power, however, does not provide authority for the SWRCB to extend the periods provided by statute for filing a petition for reconsideration or for the SWRCB to grant reconsideration on its own motion.

reconsider an administrative adjudicative decision only for the limited time period provided by the statute, after which the deciding agency lacks jurisdiction to change its decision. (*Gamm v. Board of Medical Quality Assurance* (1982) 129 Cal.App.3d 34 [181 Cal.Rptr. 23]; *Strode v. Board of Medical Examiners* (1961) 195 Cal.App.2d 291 [15 Cal.Rptr. 879].)

2.4.2 *Estoppel is Not Available*

Petitioner argued at the workshop discussion of this order that the SWRCB should be equitably estopped from asserting the 30-day statutory deadline under Water Code section 1122 as a basis for denying the petition for reconsideration. In general, the doctrine of equitable estoppel is available in administrative hearings in cases where it would be available in judicial proceedings. (*Lentz v. McMahon* (1989) 49 Cal.3d 393 [261 Cal.Rptr. 3 10].) In judicial proceedings, a balancing test is applied to decide whether to accept an equitable estoppel defense. The balancing test weighs the injustice that would result from a failure to uphold an estoppel against any adverse effect upon public interest or policy that would result from raising an estoppel. (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 496-497 [91 Cal.Rptr. 23].)

Four elements are required before an equitable estoppel is applied: “(1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of the facts; and (4) he must rely upon the conduct to his injury.” (*Lentz, supra*, 49 Cal.3d 393, 399.)

In this case, at least the fourth required element has not been established, and the first, second and third elements also may not have been established, although this order does not discuss the first three elements in detail. Regarding the fourth element, the Petitioner did not rely on the oral statement of the SWRCB’s staff engineer that the time extension was granted. First, Water Code section 1122 sets a statutory deadline for filing petitions for reconsideration. The existence of this statutory deadline alone should put the Petitioner and his attorneys on notice that an extension is not available. Second, the communications in the record do not support a factual determination that there was reliance. In the May 7 and 10, 1999 letters to the staff engineer, the

Petitioner requested an extension of time. The letters did not, however, state any understanding that the time extension had been granted, and the letters did not state that they were confirming a time extension. The staff engineer did not respond to the letters. Although Petitioner claimed, in papers submitted to the SWRCB on the day before the SWRCB's workshop in this matter, that the Petitioner had relied on the engineer's statement, this claim is not sufficient to overcome the Petitioner's failure to confirm a time extension in writing in the May 7 and 10, 1999 letters. Thus, the SWRCB concludes that the Petitioner in fact did not rely on the oral statement of the staff engineer.*

Additionally, as discussed above, the SWRCB lost its jurisdiction to change the Division Chiefs decision at the end of the day on June 2, 1999, by operation of law. Even if Petitioner relied on the staff engineer's oral statement, equitable estoppel is not available. This conclusion is based on the principle that an agency cannot do, through equitable estoppel, something that it could not do in the absence of an estoppel. (*American Federation of Labor v. Unemployment Insurance Appeals Board* (1996) 13 Cal.4th 1017, 1039 [56 Cal.Rptr.2d 109, 122]; see also *First St. Plaza Partners v. City of Los Angeles* (1998) 65 Cal.App.4th 650,668 [76 Cal.Rptr.2d 626, 637].) Under Water Code section 1122, the SWRCB's authority to order reconsideration on its own motion expires 30 days after it has adopted a decision or order.

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⁸ Considering the statutory deadline in section 1122 for filing a petition for reconsideration, Petitioner's attempt to claim reliance on the staff engineer's statement is unconvincing. Any party who is aware of the Water Code provisions should not rely on the oral statements of a staff engineer, particularly when the Petitioner's attorney was advised that questions could be directed to an SWRCB attorney.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition for reconsideration is denied. Water is not available for Petitioner's requested diversion of water from the mainstem Russian River under term 13 of water right permits 12949 and 12950, and the petition for reconsideration was not timely filed.

CERTIFICATION

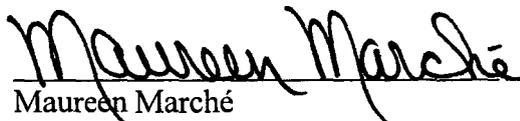
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 19, 1999.

AYE: James M. Stubchaer
Mary Jane Forster
John W. Brown
Arthur G. Baggett, Jr.

NO: None

ABSENT: None

ABSTAIN: None


Maureen Marché
Administrative Assistant to the Board