

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WRO 2003 - 0002 - EXEC

In the Matter of USFS Protest
of Applications 31165 and 31174

SOURCE: Santa Ana River.

COUNTIES: Orange County and Riverside County.

**ORDER DENYING REQUEST TO RECONSIDER DECISION DISMISSING LATE
PROTEST OF WATER RIGHT APPLICATIONS 31165 AND 31174**

BY THE EXECUTIVE DIRECTOR:

This matter comes before the State Water Resources Control Board (SWRCB) on a request to set aside a decision by the Division of Water Rights (Division) to dismiss the United States Forest Service's (USFS) late protest of water right applications 31165 and 31174 on the Santa Ana River. In this order, the SWRCB denies the request for reconsideration because the issue is moot in light of the recent consolidation order from the Division.

By letter dated March 4, 2002, the Division extended the protest period for water right applications 31165 and 31174 to 15 days after the adoption of the second Order revising the Fully Appropriated Streams Declaration (Declaration) to allow for processing four additional water right applications on the Santa Ana River. On July 2, 2002, the SWRCB adopted Order 2002-006, revising the Declaration. The deadline for submitting protests on the first two applications was July 17, 2002. The USFS filed its protest on July 31, 2002. By letter dated August 30, 2002, the Division requested the USFS to provide a statement, within 30 days, of good cause to extend the time period for filing the protest. On October 23, 2002, the Division received a response from the USFS, which argued that good cause existed to extend the protest period because: (1) the applicants suffer no prejudice from the late filing; (2) the USFS, as the

owner of lands underlying the reservoir, would be prejudiced by not being allowed to participate as a party; and (3) the USFS's participation is in the public interest. The Division dismissed the protest on October 25, 2002. The USFS sent another letter dated October 29, 2002, requesting reconsideration of the protest dismissal for the reasons stated in its October 23, 2002, letter.

By letter dated January 23, 2002, the Division is consolidating the processing of all Santa Ana River applications, and extending the protest period for the first two applications to the close of the protest period for the remaining four applications. (See attachment.) The consolidated proceeding will allow the USFS to file protests on all six Santa Ana River applications within the time period provided in the notice of the remaining four water right applications. This consolidation renders the USFS's request for reconsideration moot. Accordingly, the petition is denied.

ORDER

IT IS HEREBY ORDERED THAT the petition for reconsideration of the Division's dismissal of the USFS's late protest is DENIED.

Dated: JAN 23 2003



Celeste Cantú
Executive Director