

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WRO 2003-0007-EXEC

In the Matter of
License 1069 (Application 5868)
ANGELES NATIONAL FOREST

SOURCE: Unnamed Springs

COUNTY: Los Angeles County

**ORDER DENYING REQUEST TO SET ASIDE ORDER REVOKING LICENSE AND
DENYING REQUEST TO REINSTATE LICENSE 1069 (APPLICATION 5868)
WITHOUT PREJUDICE**

BY THE EXECUTIVE DIRECTOR:

This matter comes before the State Water Resources Control Board (SWRCB) on a request to set aside an Order by the Division of Water Rights (Division) revoking water right License 1069 and a request to reinstate the license held by Angeles National Forest (ANF). In this Order, the SWRCB denies both requests.

1.0 INTRODUCTION

Ida M. Kelly filed Application 5868 on March 27, 1928, and the Division issued License 1069 on June 8, 1931. On June 21, 2002, Division staff conducted a compliance inspection of the property served by this water right. Division staff found that the ANF had taken ownership of the property in the 1980's. Division record of ownership of License 1069 was changed to ANF on August 19, 2002. The Division inspection found the point of diversion abandoned, the conveyance pipeline incapable of diverting water, and the structures at the authorized place of use were collapsing and abandoned. On August 19, 2002, the Division sent by certified mail a notice of proposed revocation and provided the licensee 15 days to object and request a hearing. The Division did not receive an objection or a request for hearing, and thus revoked the license by Order dated October 8, 2002. On January 2, 2003, the SWRCB timely received a petition requesting the SWRCB to set aside the Order revoking License 1069 (Application 5868).

2.0 LAW GOVERNING REVOCATIONS AND REINSTATEMENTS

California Water Code section 1675.1 authorizes the SWRCB to act on a proposed revocation without a hearing unless the licensee or licensee's representative submits a written request for a hearing within 15 days of receipt of the proposed revocation notice. Water Code section 1675.2 provides: "In any case when a license is revoked without a hearing, as provided in section 1675.1, the licensee, within 90 days of the date of the order of revocation, may file with the board a request to set aside the revocation, and the board, for good cause shown, may reinstate the license".

Section 1675.2 of the Water Code has a similar effect to that of Code of Civil Procedure section 473, which allows a court to relieve a party from a judgment, dismissal, order or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. The question of good cause to reinstate the license does not reach the merits of the revocation. Rather, the party must show why they failed to file a request for a hearing within the time specified.

3.0 ANALYSES OF ALLEGED CAUSES FOR RECONSIDERATION

Petitioner submitted information stating that the licensee would like to set aside the revocation and maintain the water right. Licensee proposed to divert water from the spring to fill a water tank for fire suppression needs. Other potential uses would be to irrigate a small area around several of the historical buildings to provide a green space. This information does not provide any reason or justification as to why licensee did not request a hearing within the 15 days after receiving the proposed Order revoking the license. On January 31, 2003, the Office of Chief Counsel sent a letter explaining that a showing of good cause to set aside the revocation under Water Code section 1675.1 related only to why the licensee failed to file a request for a hearing within the time specified. This letter gave an additional 20 days to submit any information addressing why the petitioner failed to timely request a hearing. The Division did not receive any additional information within the additional time specified. Accordingly, the request to set aside the Order revoking the license is denied.

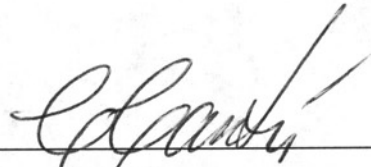
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ORDER

IT IS HEREBY ORDERED THAT the request to set aside the Order revoking License 1069 and the request to reinstate the license are **DENIED**.

Dated: 3-19-03



Celeste Cantú
Executive Director