

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Application 31189

Billie Tichenor

ORDER CANCELING APPLICATION

SOURCE: Unnamed Stream tributary to West Corral De Piedra Creek and West Corral De Piedra Creek tributary to Pismo Creek thence Pacific Ocean

COUNTY: San Luis Obispo

WHEREAS:

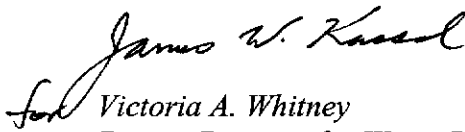
1. Bob Tichenor (deceased) and Billie Tichenor (Applicant) filed a water right application with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), on February 15, 2001, requesting the right to divert 27 acre-feet of water from Unnamed Stream tributary to West Corral De Piedra Creek and West Corral De Piedra Creek tributary to Pismo Creek thence Pacific Ocean. On April 19, 2001, the application was amended to reduce the requested diversion amount to 13 acre-feet of water.
2. Application 31189 was accepted by the Division on May 24, 2001. On September 14, 2001, a notice of the application was published by the Division. The Department of Fish and Game (DFG) protested based on potential cumulative adverse impacts to steelhead and other fishery resources. Under a 1993 San Luis Obispo County Superior Court order in *Tichenor v. Ernest Righetti and Sons*, the applicants are entitled to purchase 12 percent of the legally retained inflow to the Righetti reservoir, constructed on West Corral de Piedra Creek and located on adjacent property owned by Mr. Ernest Righetti. By letter dated September 13, 2002, DFG agreed to dismiss its protest provided that no water would be collected by the Applicant except that water delivered from the Righetti reservoir pursuant to the court order.
3. A second protest was filed by the Righetti family, claiming potential injury to prior rights, and that the Applicant's diversions from sources other than the Righetti reservoir could increase the Righetti's obligations to release water to mitigate potential impacts to downstream users and environmental resources. This protest is unresolved.
4. By letter dated June 28, 2010 the Division received notice from the Applicant requesting cancellation of Application 31189. The Applicant stated that irrigation of the Applicant's property will be accomplished by use of water purchased in accordance with the above court order, from Ernest Righetti and Sons under Applications A017840 (Permit 12887), A021061 (Permit 14086), A022704 (Permit 15444), and A028883 (Permit 20496), or by utilizing pumped groundwater. The letter cited the extreme expense, extensive engineering demands and administrative complexity in seeking a permit as additional reasons for requesting cancellation of Application 31189.
5. The State Water Board has delegated the authority to cancel applications to the Deputy Director of the Division pursuant to Resolution No. 2007-0057. The Deputy Director has redelegated this authority to the Program Manager, pursuant to redelegation order dated October 4, 2007.

THEREFORE, IT IS ORDERED THAT APPLICATION 31189 IS HEREBY CANCELED.

Applicant is hereby put on notice that any diversion of water from the points of diversion proposed under this application may be subject to administrative civil liability of up to \$500 per day without further notice, pursuant to Water Code section 1052. The State Water Board also may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

Applicant shall document any diversions made under claim of riparian or pre-1914 water rights by filing a Statement of Water Diversion and Use with the State Water Board in accordance with Water Code sections 5100 through 5108.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney
Deputy Director for Water Rights

Dated: **AUG 18 2010**