

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 2013-0100

CALIFORNIA DEPARTMENT OF TRANSPORTATION AND MCM CONSTRUCTION, INC.

For Review of
Administrative Civil Liability Order No. R1-2012-0034
California Department of Transportation, Confusion Hill Bypass Project

Issued by the
California Regional Water Quality Control Board,
North Coast Region

SWRCB/OCC FILE A-2208(a) and (b)

BY THE BOARD:

On March 15, 2012, the North Coast Regional Water Quality Control Board (North Coast Water Board) adopted Administrative Liability Order No. R1-2012-0034 (ACL Order) to the California Department of Transportation (Caltrans) for activities related to the construction of the Confusion Hill Highway Bypass Project (Project) near the South Fork of the Eel River in Mendocino County. Both Caltrans and its construction contractor for the Project, MCM Construction, Inc. (MCM), filed timely petitions seeking review of the ACL Order with the State Water Resources Control Board (State Water Board). These petitions were deemed complete and consolidated for review on November 7, 2012.¹

State Water Board regulations generally require final disposition on petitions within 270 days of the date a petition is deemed complete.² In this case, the petitioners agreed to extend that 270-day period by 60 days, to October 3, 2013, to accommodate the State Water Board's request for additional time to review the large volume of evidentiary and other issues raised in the petitions.³ If the State Water Board has not made a formal disposition within this time frame, the regulations deem the petition denied. The denial of a petition for review would

¹ Cal. Code Regs., tit. 23, § 2054.

² Cal. Code Regs., tit. 23, § 2050.5, subd. (a).

³ See Petitioners' Stipulation to Time Extension, dated July 9, 2013.

ordinarily require a petitioner to file any judicial challenge within 30 days of the denial.⁴ When the State Water Board anticipates addressing a petition on the merits after the review period passes, it may indicate that it will review the matter on its own motion to avoid unnecessary or premature litigation.

The State Water Board anticipates issuing an order addressing all of the issues raised in the petitions, including the numerous evidentiary issues, but not by October 3, 2013. Therefore, the State Water Board has decided to review the ACL Order on its own motion.⁵

ORDER

IT IS HEREBY ORDERED that the State Water Board will review Administrative Liability Order No. R1-2012-0034 on its own motion.

CERTIFICATION

The undersigned, Clerk 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 September 24, 2013.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

⁴ Wat. Code, § 13330, subd. (b).

⁵ See Wat. Code, § 13320, subd. (a); Cal. Code Regs., tit. 23, § 2050.5, subd. (c).