

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) FMIA Docket No. 14-0094
) FMIA Docket No. 14-0095
Paul Rosberg and)
Nebraska's Finest Meats, L.L.C.,)
)
Respondents)

**Ruling Denying Respondents' Motion for Extension of Time
To File a Second Petition for Reconsideration**

PROCEDURAL HISTORY

On September 24, 2014, Paul Rosberg and Nebraska's Finest Meats, L.L.C. [Respondents], filed "Appeal or Motion for Reconsideration of September 10th, 2014 Order" [Petition for Reconsideration] requesting that I reconsider *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. ____ (Sept. 10, 2014). On October 31, 2014, I issued *In re Paul Rosberg* (Order Denying Respondents' Pet. for Recons.), __ Agric. Dec. ____ (Oct. 31, 2014), denying Respondents' September 24, 2014, Petition for Reconsideration.

On December 2, 2014, Respondents filed a motion to extend the time for filing a response to *In re Paul Rosberg* (Order Denying Respondents' Pet. for Recons.), __ Agric. Dec. ____ (Oct. 31, 2014). On December 5, 2014, Alfred V. Almanza, Administrator, Food Safety and Inspection Service, United States Department of Agriculture [Administrator], filed Opposition to Respondents' Motion for Extension of Time. On December 31, 2014, Respondents filed a response to the Administrator's Opposition to Respondents' Motion for Extension of Time, and

the Hearing Clerk transmitted the record to the Office of the Judicial Officer for a ruling on Respondents' December 2, 2014, motion for an extension of time.

DISCUSSION

The rules of practice applicable to this proceeding¹ provide that a party to a proceeding may file a petition to reconsider the decision of the Judicial Officer, as follows:

§ 1.146 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of the decision of the Judicial Officer.

(a) *Petition requisite. . . .*

. . . .

(3) *Petition to rehear or reargue proceeding, or to reconsider the decision of the Judicial Officer.* A petition to rehear or reargue the proceeding or to reconsider the decision of the Judicial Officer shall be filed within 10 days after the date of service of such decision upon the party filing the petition. Every petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

7 C.F.R. § 1.146(a)(3).

¹The rules of practice applicable to this proceeding are the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [Rules of Practice].

I find Respondents' December 2, 2014, motion to extend the time for filing a response to *In re Paul Rosberg* (Order Denying Respondents' Pet. for Recons.), __ Agric. Dec. ____ (Oct. 31, 2014), constitutes a motion to extend the time for filing Respondents' second petition for reconsideration of *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. ____ (Sept. 10, 2014). A party may not file more than one petition for reconsideration of a decision of the Judicial Officer;² therefore, Respondents' December 2, 2014, request for an extension of time to file a second petition for reconsideration of *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. ____ (Sept. 10, 2014), must be denied.

For the foregoing reasons, the following Ruling is issued.

RULING

Respondents' December 2, 2014, motion for an extension of time to file a second petition for reconsideration of *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. ____ (Sept. 10, 2014), is denied.

Done at Washington, DC

December 31, 2014

William G. Jenson
Judicial Officer

²*In re Heartland Kennels, Inc.* (Order Denying Second Pet. for Recons.), 61 Agric. Dec. 562, 567 (2002) (holding, under the Rules of Practice, a party may not file more than one petition for reconsideration of the decision of the Judicial Officer); *In re Jerry Goetz* (Order Lifting Stay), 61 Agric. Dec. 282, 286 (2002) (same). *Cf. In re Fitchett Bros., Inc.* (Dismissal of Pet. for Recons.), 29 Agric. Dec. 2, 3 (1970) (dismissing a second petition for reconsideration on the basis that the Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Marketing Orders do not provide for more than one petition for reconsideration of a final decision and order).