MEMORANDUM

TO: Eileen Sobeck
Executive Director
Eileen.Sobeck@waterboards.ca.gov

FROM: Alan B. Lilly
Presiding Hearing Officer
Administrative Hearings Office
AdminHrgOffice@waterboards.ca.gov

SUBJECT: Proposed Order Approving Settlement Agreement for Administrative Civil Liability Complaint Against James C. Gowan for Failure to File 2018 Supplemental Statements of Diversion and Use

DATE: August 28, 2020

On October 18, 2019, the State Water Board, Division of Water Rights ("Division"), issued an Administrative Civil Liability ("ACL") Complaint under Water Code section 1055, alleging that the Respondent, James C. Gowan, failed to file Supplemental Statements of Diversion and Use S021346, S021347, S021348, S021350, and S021351 for 2018 by the July 1, 2019 deadline. The ACL Complaint alleged that the Respondent violated California Code of Regulations, title 23, section 920 and recommended the imposition of administrative civil liability in the amount of $10,000. The ACL Complaint stated that the maximum potential liability for the alleged violations was $270,000.

Information on the State Water Board's eWRIMS website indicates that, on November 8, 2019, Respondent submitted Supplemental Statements for Diversion and Use S021346, S021347, S021348, S021350, and S021351 during 2018.

In a letter dated November 6, 2019, Don Gowan, on behalf of Respondent, requested a hearing in this matter. Water Code section 1112, subdivision (a)(1), provides that an AHO hearing officer shall preside over hearings of ACL Complaints issued under Water Code section 1055.

On April 15, 2020, the AHO issued a Notice of Public Hearing in this matter. The hearing was scheduled for July 8, 2020. The AHO hearing officer's proposed order in this matter would have been issued under Water Code section 1114, subdivision (c).

Because Respondent did not file the required Notice of Intent to Appear by the deadline specified in the Notice of Public Hearing, on July 7, 2020, the AHO canceled the hearing in this matter.

On August 19, 2020, the PT transmitted to the AHO a copy of the settlement agreement that representatives of the PT and the Respondent signed on August 17, 2020, which resolved the ACL Complaint. On August 19, 2020, the PT also transmitted to the AHO the proposed order approving the settlement agreement that the PT and the Respondent had prepared. Copies of the settlement agreement and proposed order are enclosed.

The issuance of a decision or order pursuant to a settlement agreement is authorized by Government Code section 11415.60. Section 5 of Board Resolution 2002-0104 authorizes the Executive Director to issue a decision or order by settlement of the parties under section 11415.60. Consistent with these legal authorities, I am transmitting the proposed order to you for your consideration, and, if it is acceptable to you, for your approval.

Encls:

2020-08-17 Respondent and Prosecution Team Settlement Agreement
2020-08-17 Respondent and Prosecution Team Proposed Order

Cc w/encls:

Sharon Gowan, on behalf of Respondent James C. Gowan and Don Gowan
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