
State Water Resources Control Board

MEMORANDUM

TO: Julé Rizzardo, Assistant Deputy Director
Division of Water Rights
State Water Resources Control Board
Jule.Rizzardo@waterboards.ca.gov

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

SUBJECT: Brent Owen Administrative Civil Liability Complaint
Water Right License 10004 (Application A016078)

DATE: July 10, 2020

On July 1, 2019, you issued an Administrative Civil Liability (“ACL”) Complaint to Brent Owen. The ACL Complaint alleged that Mr. Owen violated California Code of Regulations, title 23, section 929, by failing to file his report for 2018 diversions and use under the above water-right license by the April 1, 2019 deadline.

The State Water Board Division of Water Rights eWRIMS database indicates that Mr. Owen filed his report for 2018 diversions and use on July 10, 2019. Mr. Owen sent you a letter and e-mail dated July 18, 2019, and he received a reply e-mail dated July 19, 2019 from Lang Khang of the Division of Water Rights Enforcement Section. Mr. Owen then sent a letter to the Administrative Hearings Office (“AHO”) dated July 23, 2019, which requested a hearing.

On April 9, 2020, the AHO issued a Notice of Public Hearing for this matter. On pages 4-5, this notice stated:

Any Person or Entity that wants to participate in this hearing as a Party or to present a Policy Statement must file a Notice of Intent to Appear (“NOI”), using the form enclosed with this notice, with the AHO before the deadline listed below.

...

If the AHO does not receive an NOI from Respondent indicating Respondent's intent to participate in the hearing as a Party before the deadline specified below, then the AHO may deem Respondent's request for a hearing regarding the administrative civil liability complaint to be withdrawn and the AHO may issue an order imposing administrative civil liability without further notice or opportunity for hearing. Respondent must file an NOI to preserve Respondent's right to a hearing.

(Underlining in original.) On page 5, the Notice of Public Hearing stated that the deadline for filing NOIs was May 21, 2020. The AHO received an NOI from Kenneth Petruzzelli, attorney for the Division of Water Rights Prosecution Team, on May 20, 2020.

On April 9, 2020, the AHO mailed a copy of this Notice of Public Hearing to Mr. Owen at the address listed in his July 23, 2019 letter to the AHO by certified mail, return receipt requested. The AHO later received the certified mail return receipt card, signed by KD Hawkins (the person who, representing Mr. Owen, communicated by e-mail with Lang Khang on July 18, 2019) on April 16, 2020.

The AHO never received any NOI from Mr. Owen or Mr. Hawkins and the AHO has not received any communications from Mr. Owen or Mr. Hawkins since Mr. Owen's July 23, 2019 letter. All of the documents in the AHO's administrative record for this matter have been posted on the AHO-FTP site (<https://ftp.waterboards.ca.gov/WebInterface/login.html>).

Based on these facts, the AHO deems Mr. Owen's request for hearing to be withdrawn, and the AHO is transmitting this ACL Complaint to the Division of Water Rights for further proceedings.

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SERVICE LIST

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(via first class mail and e-mail)

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