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## State Water Resources Control Board

TO: Mayumi Okamoto, Assistant Chief Counsel, State Board Programs  
**Office of Enforcement**

Roberto Cervantes, Supervising WRC Engineer  
**Division of Water Rights, Enforcement Section**

FROM: Nicole Kuenzi, Presiding Hearing Officer  
**Administrative Hearings Office**

DATE: February 3, 2023

SUBJECT: Procedures for Disposition of Administrative Civil Liability Complaints,  
Notices of Proposed Cease and Desist Orders, and Notices of Proposed  
Revocation of a Water-Right Permit or License Without a Hearing

This memorandum describes how the Administrative Hearings Office (AHO) will process enforcement matters identified in Water Code section 1112, including administrative civil liability complaints (ACL complaints), notices of proposed cease and desist orders (CDOs), and notices of proposed revocations of water-right permits and licenses, if the matter resolves before the hearing date by withdrawal of the administrative pleading, withdrawal of the request for hearing, or settlement in lieu of hearing.

When the AHO receives a timely request for a hearing in a water rights enforcement matter such as an ACL complaint, notice of a proposed CDO, or notice of revocation of a permit or license, the AHO sends an acknowledgement of receipt of the request to the person or entity to whom the administrative pleading was directed (Respondent), with copies to the potential assigned Office of Enforcement attorney and the potential assigned Division of Water Rights (Division) Enforcement Section staff. The AHO then issues a notice of hearing, which specifies the hearing date and provides information about the hearing issues and procedures. Before the AHO issues a notice of hearing, the AHO may allow the Respondent and the Division a reasonable period of time to attempt to resolve the matter by settlement in lieu of hearing.

The following describes the actions that the Division and the AHO normally will take when an enforcement matter resolves after the Respondent has submitted a request for hearing but before the hearing date. An enforcement matter may resolve without a hearing if the Division withdraws the administrative pleading, the Respondent withdraws the request for hearing, or the parties reach a settlement agreement. State Water Resources Control Board (Board) Resolution 2002-0104 provides that the Executive Director may issue a decision or order by settlement of the parties under Government Code section 11415.60.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

**1. Division Withdraws Administrative Pleading Before AHO Hearing:**

If the Division withdraws its administrative pleading after the Respondent has requested a hearing but before the hearing date, then the Division or the assigned Office of Enforcement attorney should promptly notify the AHO of this withdrawal in writing by e-mail to the AHO inbox ([adminhrqoffice@waterboards.ca.gov](mailto:adminhrqoffice@waterboards.ca.gov)) and include in the e-mail's "cc" line the e-mail address of the Respondent and all persons and parties who received the AHO's acknowledgment of the hearing request. The AHO then will issue a notice of cancelation of the hearing, if the AHO has scheduled a hearing, and a memorandum to the parties advising them that the AHO is closing its file on the proceeding. The AHO will post a copy of any notice of cancelation of the hearing on the AHO's webpage and copies of any notice of cancelation and the memorandum on the Board's FTP site. The AHO will take no further action in the matter.

**2. Respondent Withdraws Request for Hearing Before AHO Hearing:**

If the Respondent withdraws the request for hearing before the hearing date by notifying the AHO of the withdrawal in writing, the AHO then will issue a notice of cancelation of the hearing, if the AHO has scheduled a hearing, and a memorandum to the parties advising them that the AHO is closing its file on the proceeding. Before issuing a notice of cancelation of the hearing or a memorandum closing the file, the AHO may communicate with the Respondent in writing, with a copy to all persons and parties who received the AHO's acknowledgment of the hearing request, to explain the consequences of withdrawal of the hearing request and to confirm that the Respondent does not want a hearing. The AHO will post a copy of any notice of cancelation of the hearing on the AHO's webpage and copies of any notice of cancelation and the memorandum on the Board's FTP site. The AHO will take no further action in the matter.

**3. Division and Respondent Settle Before AHO Hearing:**

If the Division and the Respondent reach a settlement agreement that resolves the issues raised by the administrative pleading before the hearing date, then the Division or the assigned Office of Enforcement attorney should promptly notify the AHO of the settlement in writing by e-mail to the AHO inbox with a copy of the signed settlement agreement attached, and include in the e-mail's "cc" line the e-mail address of the Respondent and all persons and parties who received the AHO's acknowledgment of the hearing request. The e-mail should confirm that the settlement agreement contains language that the Respondent has withdrawn the hearing request or has agreed to the settlement in lieu of hearing.

If the AHO receives a copy of the signed settlement agreement and the settlement agreement states that the Respondent has withdrawn the hearing request or has agreed to the settlement in lieu of hearing, then the AHO will issue a notice canceling the hearing, if the AHO has scheduled a hearing, and a memorandum to

the parties advising them that the AHO is closing its file on the proceeding. The AHO will post a copy of any notice of cancelation of the hearing on the AHO's webpage and copies of any notice of cancelation and the memorandum on the Board's FTP site. The Division will transmit any draft order approving the settlement agreement directly to the Executive Director or the Board and the AHO will take no further action in the matter.