
State Water Resources Control Board

MEMORANDUM

TO: Mayumi Okamoto
Office of Enforcement
mayumi.okamoto@waterboards.ca.gov

FROM: Megan Knize
Hearing Officer
Administrative Hearings Office
AdminHrgOffice@waterboards.ca.gov

SUBJECT: Closing File in the Matter of Benjamin B. Magana Jr. Drinking Water
Distribution Operator Certification Disciplinary Action

DATE: January 16, 2024

On November 2, 2022, the Executive Director of the State Water Resources Control Board (Board) sent notice to Benjamin B. Magana, Jr. of a Proposed Disciplinary Action by the Board's Office of Enforcement to revoke Mr. Magana's Grade D3 water distribution operator certificate (Certificate No. 34232). The Proposed Disciplinary Action was based upon the Office of Enforcement's determination that Mr. Magana violated Health and Safety Code sections 106877 (subdivisions (b)(2), (b)(3), (b)(4) and (b)(6)) and 106878 (subdivisions (b)(2) and (c)) by providing false or misleading information to the state, failing to ensure proper treatment of the distribution system, and employing a water distribution operator who does not hold a valid, unexpired water distribution operator certificate. The Office of Enforcement proposed revocation of Mr. Magana's Grade D3 drinking water distribution operator certificate, and notification of Mr. Magana's current and former employers. On December 16, 2022, Mr. Magana requested a hearing before the State Water Board regarding the Proposed Disciplinary Action.

On May 11, 2023, the Board's Executive Director issued a memorandum assigning the proposed revocation of Magana's Drinking Water Distribution Operator Grade 3 Certificate 34232 to the Administrative Hearings Office (AHO) for a hearing and preparation of a proposed order. The AHO conducted a pre-hearing conference on May 25, 2023. On June 16, 2023, the AHO issued a Notice of Hearing in the matter for August 22 and 23, 2023.

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On July 24, 2023, Nickolaus Knight, an attorney with the Board's Office of Enforcement, advised the AHO by e-mail that the Division's Prosecution Team and Mr. Magana had reached a settlement in principle to resolve the Proposed Disciplinary Action. Mr. Knight requested that the AHO suspend the hearing dates while the parties reduce the agreement to writing and the Prosecution Team seeks approval of the settlement from the Executive Director of the Board.

The AHO suspended the hearing set for August 22 and 23 and held a status conference on August 22, 2023. During the status conference, Mr. Knight indicated that he provided draft settlement documents to Mr. Magana on August 21, 2023, and that he expected the parties would sign a final settlement agreement within sixty days. In response to the hearing officer's direction, Mr. Knight provided a status update via e-mail on September 22, 2023 and stated the parties would complete an agreement within the next two weeks.

On November 15, 2023, the Water Board opened the public comment period on a Proposed Order for Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, Benjamin Magna Jr. No public comments were received. On January 3, 2024, the Board issued Order WQ 2024-0001-EXEC.

Therefore, based on the parties' settlement agreement, the AHO will not schedule a hearing and is closing its file in this matter.

SERVICE LIST

By e-mail only:

Benjamin B. Magana, Jr.

238 N. York Street

Porterville, CA 93257

benjamin.magana1985@gmail.com

benny_magana@icloud.com

Mayumi Okamoto

State Water Board, Office of Enforcement

mayumi.okamoto@waterboards.ca.gov

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov