

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF NOVEMBER 12 AND 13, 2008
Barstow**

ITEM: 12

SUBJECT: STATUS REPORT ON SETTLEMENT DISCUSSIONS REGARDING A POTENTIAL ADMINISTRATIVE CIVIL LIABILITY ORDER FOR EVERD A. MCCAIN, B.J. DEIS, AND MCCAIN AND ASSOCIATES FOR VIOLATION OF (1) WASTE DISCHARGE PROHIBITIONS SPECIFIED BY THE *WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION*, (2) CLEAN WATER ACT 301, (3) CALIFORNIA WATER CODE SECTION 13267, (4) CALIFORNIA WATER CODE 13304, AND (5) CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION - BELFAST RANCH – SKEET DAM AND BUZ DAM, LASSEN COUNTY, WDID NOS. 6A180508N05 AND 6A180105013

CHRONOLOGY: May 5, 2006 Executive Officer issues Cleanup and Abatement Order directing B.J. Deis and McCain and Associates to cleanup and abate the effects of the unauthorized discharge of earthen materials to Willow Creek from the unauthorized construction of Skeet Dam and the failures of Buz and Skeet Dams.

November 16, 2007 Assistant Executive Officer issues Everd A. McCain, B.J. Deis, and McCain and Associates an Administrative Civil Liability Complaint for \$100,000.

March 13, 2008 Water Board hearing on the ACL. Hearing continued to a later meeting to allow the parties an opportunity to try to reach a settlement agreement.

May 14, 2008 Status report provided at Board meeting in Tahoe City on settlement discussions.

July 23, 2008 Status report provided at the Board meeting in Truckee on settlement discussions.

DISCUSSION:

Since the July 2008 status report on this item, two Prosecution Team members met with Mr. McCain for a site inspection on October 1, 2008. They found that Mr. McCain successfully completed the stabilization plan, which includes measures to restore fish passage and control erosion and prevent sediment from discharging to the creek and its associated wetland and riparian areas.

Fish passage measures consist of a series of step pools constructed within the reaches of Willow Creek affected by Skeet and Buz Dams. Department of Fish and Game staff had previously visited the site on September 4, 2008 and was pleased with the passage structure in place at Skeet Dam. At the time of Department of Fish and Game's inspection, work on the fish passage structure at Buz Dam had not been started.

Additionally, the Water Board's Prosecution Team provided Mr. McCain and the Advisory Team a copy of a Draft Settlement Agreement and a draft ACL Oder for review. All parties have met and revisions to the documents are being made. Staff anticipates bringing a proposed settlement before the Water Board at its January 2009 meeting.

**RECOMMEND-
ATION:**

Information item only.