

Executive Officer's Summary Report  
9:00 a.m., March 15, 2012  
River Lodge Conference Center  
1800 Riverwalk Drive  
Fortuna, California

Item: 6

Subject: Public Hearing consider adoption of Administrative Civil Liability Order No. R1-2012-0034, **California Department of Transportation, Confusion Hill Bypass Project**, Complaint No. R1-2009-0095, WDID No. 1B05153WNME

### DISCUSSION

The Regional Water Board staff issued Administrative Civil Liability Complaint R1-2009-0095 on August 13, 2009 (Complaint) to the California Department of Transportation (Caltrans), who contracted with MCM Construction, Inc. (MCM) to construct the Confusion Hill Bypass Project (hereafter collectively Dischargers). The Dischargers objected to the \$1,511,000 proposed administrative civil liability and a hearing took place before the Regional Water Board Hearing Panel on June 23, 2011. At the hearing, the Hearing Panel considered relevant evidence and testimony to decide whether to issue an order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. To help ensure the fairness and impartiality of the proceeding, the functions of those who acted in a prosecutorial role by presenting evidence for consideration by the Regional Water Board (Prosecution Team) were separated from those who advise to the Regional Water Board (Advisory Team). Collectively, the Dischargers and Prosecution Team are referred to as Parties.

At the direction of the Hearing Panel, the Advisory Team developed draft Administrative Civil Liability Order No. R1-2012-0034 (draft ACL Order R1-2012-0034). Draft ACL Order R1-2012-0034 was distributed to the Parties on February 15, 2012 for review and comment. Parties' comments have been limited to the general acceptability of the order or possible technical corrections. Comments were originally due by February 24, 2012. However, in response to a request from MCM, the deadline for written comments was extended five calendar days. Written comments will be received by no later than 5:00 p.m., on February 29, 2012. Due to the timing for written comments, modifications, if any, to ACL Order R1-2012-0034, will not be incorporated into the full agenda, but will instead be presented to the Board under separate cover.

PRELIMINARY STAFF  
RECOMMENDATION:

Adopt the Order as ultimately proposed.