

Lahontan Regional Water Quality Control Board

September 22, 2016

Charlton H. Bonham, Director
California Department of Fish & Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Director@wildlife.ca.gov

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7009 0820 0001 6630 3720

EXECUTED ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING FOR SETTLEMENT OFFER NO. R6V-2016-0040 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, HOT CREEK FISH HATCHERY, MONO COUNTY, WDID NO. 6B260801001

Enclosed is a copy of the Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) for Settlement Order No. R6T-2016-0040, signed by the Lahontan Water Board's Executive Officer. The Executive Officer signed the Acceptance and Waiver on September 22, 2016, following a 30-day public review and comment period, in which no comments were submitted.

The Acceptance and Waiver has now been executed by both the California Department of Fish and Wildlife (CDFW) and the Lahontan Water Board. Payment of **\$6,000** is due and payable to the State Water Pollution Cleanup and Abatement Account by **October 24, 2016**, per the terms of the executed Acceptance and Waiver. Please submit payment with reference of Settlement Order No. R6T-2016-0040 to:

State Water Resources Control Board
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor
Sacramento, California 95814

This matter will be considered closed and final upon payment as discussed in the executed Acceptance and Waiver.

The Lahontan Water Board appreciates CDFW's cooperation in this matter. Please contact me at (530) 542-5412 (Patty.Kouyoumdjian@waterboards.ca.gov), or Cathe Pool at (530) 542-5460 (Catherine.Pool@waterboards.ca.gov), if you have any questions.



Patty Z. Kouyoumdjian
Executive Officer

Enclosure

Cc (w/enclosure):

Regional Board Members

Stafford Lehr, Fishery Branch Chief, California Dept. of Fish and Wildlife

Mike Giusti, Environmental Program Manager, California Dept. of Fish and Wildlife

Terry Jackson, Statewide Hatchery NPDES & Homeland Security Coordinator,
California Dept. of Fish and Wildlife

Gary Williams, Senior Hatchery Supervisor, California Dept. of Fish and Wildlife

Mike Escallier, Hatchery Manager, California Dept. of Fish and Wildlife

Nancee Murray, Staff Counsel, California Dept. of Fish and Wildlife

David Boyers, Assistant Chief Counsel, State Water Resources Control Board,
Office of Enforcement

Kimberly Niemeyer, Staff Counsel III, State Water Resources Control Board,
Office of Enforcement

Lauri Kemper, Assistant Executive Officer, Lahontan Regional Water Quality Control Board

Patrice Copeland, Senior Engineering Geologist, Lahontan Regional Water Quality
Control Board

Catherine Pool, Senior Water Resource Control Engineer, Lahontan Regional Water
Quality Control Board



Lahontan Regional Water Quality Control Board

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

Charlton H. Bonham, Director
California Department of Fish & Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

Settlement Offer No. R6V-2016-0040
NPDES Permit No. CA0102776

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, Lahontan Region (Water Board), the California Department of Fish and Wildlife (hereinafter "DFW") hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Water Board to dispute the allegations of violations described in the June 30, 2016 Notice of Violation (NOV), which is incorporated herein by reference.

DFW agrees that the NOV shall serve as a complaint pursuant to Division 7, Chapter 5, Article 2.5 of the California Water Code, and that no separate complaint is required for the Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. DFW agrees to pay the penalties required by California Water Code section 13385, in the sum of \$6,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability, pursuant to Water Code sections 13385, that otherwise might be assessed for the violations described in the NOV. DFW understands that this Acceptance and Waiver waives DFW's right to contest the allegations in the NOV and the amount of civil liability for such violations.

DFW understands that this Acceptance and Waiver does not address or resolve liability for any violations, other than those specifically identified in the NOV.

Upon execution by DFW, the completed Acceptance and Waiver shall be returned to:

Lahontan@waterboards.ca.gov

Include "Hot Creek EPL Acceptance" and the WDID No. in the transmittal email's subject line.

DFW understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) and the State Water Resources Control Board's Enforcement Policy require the Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing NPDES permit

AMY L. HEINE, Ph.D. CHAIR | PATTI Z. KURITA-MILIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd. So. Lake Tahoe, CA 96150 | 14440 Civic Dr. Ste. 200, Victorville, CA 92382
e-mail: Lahontan@waterboards.ca.gov | website: www.waterboards.ca.gov/lahontan



violations. Accordingly, this Acceptance and Waiver, prior to execution by the Water Board Executive Officer, will be published as required by law for public comment.


If no comments are received within the notice period that causes the Water Board Executive Officer to question the Expedited Payment Amount, the Water Board Executive Officer will execute the Acceptance and Waiver.

DFW understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Water Board to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, DFW will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Water Board. For such a liability hearing, DFW understands that this Acceptance and Waiver executed by DFW will be treated as a settlement communication and will not be used as evidence in that hearing.

DFW further understands that once the Acceptance and Waiver is executed by the Water Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$6,000 liability shall be paid by a cashiers or certified check for \$6,000, made out to the "State Water Pollution Cleanup and Abatement Account" referencing the number of this Settlement Offer. The payment must be submitted to the State Water Resources Control Board, Division of Administrative Services, Accounting Branch, 1001 I Street, 18th Floor, Sacramento, California 95814, no later than thirty (30) days after the date the Acceptance and Waiver is executed by the Water Board Executive Officer.


I hereby affirm that I am duly authorized to act on behalf of and to bind DFW in the making and giving of this Acceptance and Waiver.

California Department of Fish and Wildlife

By:  8/3/16
(Signed Name) (Date)
Ann Malcolm Asst. Chief Counsel
(Printed or typed name) (Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: September 22, 2016

By: 
PATTY Z KOUYOUMDJIAN
EXECUTIVE OFFICER