



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## 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](mailto:Director@wildlife.ca.gov)

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Claim No. 7009 0820 0001 6630 3737

### **EXECUTED ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING FOR SETTLEMENT OFFER NO. R6V-2016-0041, CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, MOJAVE RIVER FISH HATCHERY, SAN BERNARDINO COUNTY, WDID NO. 6B360812001**

Enclosed is a copy of the Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) for Settlement Order No. R6T-2016-0041, 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 **\$3,000** 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-2016-0041 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](mailto:Patty.Kouyoumdjian@waterboards.ca.gov)), or Cathe Pool at (530) 542-5460 ([Catherine.Pool@waterboards.ca.gov](mailto:Catherine.Pool@waterboards.ca.gov)), if you have any questions.

  
Patty Z. Kouyoumdjian  
Executive Officer

AMY L. HORNE, PH.D., CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd., So. Lake Tahoe, CA 96150 | 15095 Amargosa Road, Bldg 2, Ste 210, Victorville CA 92394  
e-mail [Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov) | website [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan)

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**

Gary Williams  
California Department of Fish & Wildlife  
Mojave River Fish Hatchery  
12550 Jacaranda Ave.  
Victorville, CA 92395

Settlement Offer No. R6V-2016-0041  
NPDES Permit No. CA0102814

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 "Permittee" or "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 allegation of a violation 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 violation through its Chief Prosecutor. DFW agrees to pay the penalties required by California Water Code section 13385, in the sum of \$3,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violation described in the NOV. DFW understands that this Acceptance and Waiver waives DFW's right to contest the allegation in the NOV and the amount of civil liability for such violation.

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

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

[Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov)

Include "Mojave River Hatchery 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

AND L. HORNE, Ph.D., CHAIR | PATTY Z. KHOUJOURJIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd., So. Lake Tahoe, CA 96150 | 14440 Civic Dr., Ste. 200, Victorville, CA 92392  
e-mail [Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov) | website [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan)



comment on any proposed resolution of an enforcement action addressing NPDES permit 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 violation 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 \$3,000 liability shall be paid by a cashiers or certified check for \$3,000 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, 18<sup>th</sup> 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: <u></u>	<u>8/3/16</u>
(Signed Name)	(Date)
<u>Ann Malcolm</u>	<u>Asst. Chief Counsel</u>
(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