
Lahontan Regional Water Quality Control Board

November 2, 2020

INTERESTED PERSONS

Notice of Proposed Settlement with California Department of Fish and Wildlife for Effluent Limitation Violations at the Mojave River Fish Hatchery – Written Comments Due No Later Than 5:00 p.m., December 2, 2020

The California Regional Water Quality Control Board, Lahontan Region (Water Board) Executive Officer will consider approval of a proposed settlement with the California Department of Fish and Wildlife (CDFW). The proposed settlement, if approved, will resolve the effluent limitation violations alleged by Water Board staff in an Offer to Participate in Expedited Payment Program (Settlement Offer) issued by the Water Board's Prosecution Team Lead on October 26, 2020. The alleged violations are subject to mandatory minimum penalties of \$3,000 per violation pursuant to Water Code section 13385, subdivision (h).

The Settlement Offer provides an opportunity for CDFW to waive its right to a hearing and agree to pay the mandatory minimum penalty of \$6,000 for the alleged violations. On October 27, 2020, CDFW took such action by submitting a signed copy of the Settlement Offer's Acceptance of Conditional Resolution and Waiver of Right to Hearing (enclosed). This action constitutes a proposed settlement that is subject to a 30-day public comment period pursuant Water Code section 13385 and the State Water Resources Control Board's Enforcement Policy.

The Settlement Offer, Record of Violations, and signed Acceptance of Conditional Resolution and Waiver of Right to Hearing are available at the Water Board's website:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/enforcement/mojave_river_fish_hatchery.shtml.

Persons may comment on the proposed settlement by submitting written comments so that they are received no later than 5:00 p.m. on December 2, 2020. Written comments should include "CDFW Mojave River Fish Hatchery, Proposed Settlement" in the subject line, and should be submitted by email to:

Lahontan@waterboards.ca.gov

If the Executive Officer does not adopt the proposed settlement, the matter may be scheduled for Water Board consideration on whether to adopt or reject the settlement at a future Board Meeting. Please check the Water Board's website for any updates on this matter.

A handwritten signature in blue ink, appearing to read "Scott Ferguson".

Scott Ferguson, P.E.
Supervising Water Resources Control Engineer

Enclosure: Acceptance of Conditional Resolution and Waiver of Right to Hearing

cc: Mojave River Hatchery Mailing List



Lahontan Regional Water Quality Control Board

ACCEPTANCE OF CONDITIONAL OFFER AND WAIVER OF RIGHT TO HEARING; ORDER

California Department of Fish and Wildlife
Mojave River Fish Hatchery
Settlement Offer No. R6V-2020-0056
WDID 6B360812001

By signing below and returning this Acceptance of Conditional Offer and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board), the California Department of Fish and Wildlife (Discharger) hereby accepts the "Offer to Participate in Expedited Payment Program" (Conditional Offer), incorporated herein by reference, and waives the right to a hearing before the Lahontan Water Board to dispute the allegations of violations described in the Record of Violations (ROV), which is included as Attachment A to the Conditional Offer.

The Discharger agrees that the Conditional Offer shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Lahontan Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Discharger agrees to pay the penalties required by Water Code section 13385, in the sum of **six thousand dollars (\$6,000)** (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 violations described in the ROV. The Discharger understands that by signing this Acceptance and Waiver, it waives its right to contest the allegations in the ROV and the amount of civil liability assessed for the violations.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the ROV.

Upon execution by the Discharger, the completed Acceptance and Waiver shall be returned via email to: Lahontan@waterboards.ca.gov. Please include "Mojave River Fish Hatchery EPL Acceptance" and the WDID number (6B360812001) in the transmittal email's subject line.

The Discharger 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 Lahontan Water Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of an

PETER C. PUMPHREY, CHAIR | MIKE PLAZIAK, ACTING EXECUTIVE OFFICER

enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Lahontan 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 Lahontan Water Board Executive Officer to question the Expedited Payment Amount, the Lahontan Water Board Executive Officer will execute this Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Lahontan Water Board to resolve the violations set forth in the ROV may be withdrawn. In that circumstance, the Discharger 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 Lahontan Water Board. For such a liability hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger further understands that once the Acceptance and Waiver is executed by the Lahontan Water Board Executive Officer or designee, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with Water Code section 13385(n)(1) and Water Code section 13385.1(c)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to Water Code sections 13385 and 13385.1 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 made out to the "*State Water Pollution Cleanup and Abatement Account*".

The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Lahontan Water Board Executive Officer or his designee. The check shall be mailed to:

State Water Resources Control Board
Division of Administrative Services, Accounting Office
Attn: Settlement Offer R6V-2020-0056 Payment
PO Box 1888
Sacramento, California 95812-1888

The Discharger shall also provide a copy of the check via email to the Lahontan Water Board at Lahontan@waterboards.ca.gov. Please include "Mojave River Fish Hatchery EPL Payment" and the WDID number (6B360812001) in the transmittal email's subject line.

