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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
10	JIMMY LEE BILLS,
11	Petitioner, No. CIV S-06-2223 MCE GGH P
12	VS.
13	KEN CLARK, et al.,
14	Respondents. ORDER
15	/
16	By order filed on January 27, 2012, the second evidentiary hearing in this matter
17	was re-set for Wednesday, April 18, 2012, at 9:00 a.m. before the undersigned, pursuant to a
18	request by petitioner's counsel for the hearing to be re-set to accommodate a proposed new
19	expert for petitioner. Petitioner's request for funding of the expert was vacated with directions to
20	counsel to file a modified funding request within seven days; thereafter, petitioner was granted an
21	extension of time to file the modified request.
22	In a status report regarding the modified funding request, which was filed one day
23	late as counsel for petitioner acknowledges, counsel informs the court that her dogged efforts to
24	secure the services of the proposed new expert have proved fruitless. Petitioner's counsel sets
25	forth steps she has taken since to obtain the expertise she seeks with respect to TABE testing but
26	has as yet not secured an expert for which she might seek funding. Counsel asks for permission
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1 to file a further status report or funding request by February 27, 2012.

2	While the court understands counsel's desire to secure a "rock to crawl under" and
3	has some empathy for the frustrating circumstances she faces, it is past time to fish or cut bait in
4	this case (to mix metaphors). The court hereby grants petitioner's request to file a further status
5	report, but there will be no further re-setting of the date for the upcoming evidentiary hearing. If
6	petitioner is able to locate an expert and any report generated by said expert can be served upon
7	respondent two weeks prior to the scheduled evidentiary hearing, petitioner will be permitted to
8	present the potential expert witness at the hearing. See Fed. R. Civ. P. 26(a)(2). The court will
9	also consider a new request for funding. However, no further request to move the evidentiary
10	hearing will be considered.
11	IT IS SO ORDERED.
12	DATED: February 9, 2012
13	/s/ Gregory G. Hollows
14	UNITED STATES MAGISTRATE JUDGE
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