

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**MEETING OF JANUARY 14 and 15, 2009  
Truckee**

**ITEM:** 6

**SUBJECT:** **RESCISSION OF WASTE DISCHARGE REQUIREMENTS FOR  
EAGLE LAKE ESTATES, BOARD ORDER NO. 6-82-03, W DID NO.  
6A318825005, LASSEN COUNTY**

**CHRONOLOGY:** January 14, 1982 Water Board adopted new Waste Discharge Requirements (WDRs) for Eagle Lake Estates Project, Board Order No. 6-82-03

**ISSUE:** Should the Water Board rescind WDRs for the Eagle Lake Estates Project?

**DISCUSSION:** Waste Discharge Requirements (WDRs) were adopted on January 14, 1982, for the Eagle Lake Estates Project, then proposed as a 35-lot subdivision with a minimum lot size of 20 acres per parcel. Wastes subject to regulation under the existing Waste Discharge Requirements include waste earthen materials, stormwater associated with construction, and domestic wastewater from individual onsite disposal systems.

The 1982 WDRs, while still applicable, are outdated with respect to current applicable regulatory programs. Construction activities involving more than one acre of land disturbance are now subject to National Pollutant Discharge Elimination System (NPDES) permit requirements issued through the State Water Resources Control Board. The Water Board has a formal understanding with Lassen County that delegates primary responsibility for permitting individual onsite wastewater disposal systems to Lassen County. The Water Board has generally waived requirements for property owners to apply to the Water Board for WDRs related to individual onsite wastewater disposal systems that meet Basin Plan requirements, with limited exceptions.

Compliance oversight with both NPDES requirements and the onsite wastewater disposal system program rests with the Water Board. It is in the public interest to rescind Board Order No. 6-82-03, which is outdated and duplicative or overlapping with other requirements.

A tentative rescission Order was mailed out to interested parties on October 14, 2008, with a request for comments by November 17, 2008. Comments opposing the rescission (Enclosure 3) were received from B.J. Pearson, the Discharger named in Board Order No. 6-82-03, indicating a disagreement with findings in the proposed rescission

06-0001

Order. Mr. Pearson was contacted for additional details; none were provided in writing, but Mr. Pearson asserted that a "state geologist" had long ago approved of septic systems on each parcel of the 1982 subdivision. Staff requested written documentation to verify the claims. Staff also provided a copy of a letter (Enclosure 4) written by the Water Board staff to the Lassen County Planning Department concerning a renewed, revised planning effort associated with subdividing the Eagle Lake Estates property. The letter includes information, based on our files, indicating the Water Board has not reviewed or approved of any onsite waste disposal systems for the existing parcels of the Eagle Lake Estates. Staff asked Mr. Pearson to provide any additional written comments for Water Board consideration at least 10 days prior to the meeting on January 14, 2009. No other comments were received.

**RECOMMENDATION:** Adoption of the Order as proposed.

Enclosures:

1. Fact sheet
2. Proposed Board Order
3. Comments from Pearson, dated November 17, 2008
4. Water Board comments to Lassen County, dated September 15, 2008

# ENCLOSURE 1

06-0003

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION  
MEETING OF JANUARY 14 AND 15, 2009  
Truckee**

**FACT SHEET**

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS FOR  
EAGLE LAKE ESTATES BOARD ORDER NO. 6-82-03**

**ITEM NO:** 6

**DISCHARGER NAME:** B. J. Pearson

**FACILITY TYPE:** Housing Development

**PROJECT NAME:** Eagle Lake Estates

**WDID NO.:** 6A188025005

**LOCATION:** 1.5 miles north of Eagle Lake, Lassen County

**TYPE OF WASTE:** Domestic wastewater from on-site disposal systems, storm water runoff associated with construction activities

**PROGRAM:** Waste Discharge Requirements

**TREATMENT FACILITIES:** Onsite wastewater disposal systems

**DISPOSAL FACILITIES:** Onsite wastewater disposal systems

**PRESENT FLOW:** N/A (no homes constructed)

**RECEIVING WATERS:** Susanville Hydrologic Unit (637.20)

**BENEFICIAL USES:** Municipal and Domestic Supply, Agricultural Supply, Water Contact Recreation, Non-Water-Contact Recreation, Cold Freshwater Habitat , Wildlife Habitat, Commercial and Sport Fishing, Spawning, reproduction and development, Water Quality Enhancement, Flood Peak Attenuation, Ground Water Recharge , Freshwater Replenishment, Rare and Endangered Species, Preservation of Biological Habitats of Special Significance

**CEQA COMPLIANCE:** Categorically Exempt, section 15321, title 14, CCR

**LANDOWNER:** B. J. Pearson

**NEARBY DEVELOPMENT:** Spalding Tract and Stones-Bengard subdivisions

06-0004

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## **ENCLOSURE 2**

06-0005

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

**BOARD ORDER NO. R6T-2008-(PROPOSED)**

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS**

**FOR**

**EAGLE LAKE ESTATES, BOARD ORDER NO. 6-82-03  
WDID NO. 6A188025005**

Lassen County

The California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

Eagle Lake Estates

On January 14, 1982, the Water Board adopted Board Order No. 6-82-03 prescribing Waste Discharge Requirements (WDRs) for Eagle Lake Estates (Site). The Site is located approximately 1.5 miles north of Buck's Bay at Eagle Lake. In 1982, the Site (635-acre parcel) was proposed to be subdivided into 35 residential parcels with a minimum of 20 acres per lot.

WDRs were adopted to regulate construction wastes and erosion products in storm water, and discharges of domestic wastewater from individual onsite disposal systems. Under the WDRs, subsequent Water Board approval was required for the onsite system for each parcel. The Water Board files in this matter contain no evidence that such approvals were ever sought or granted.

To date, development at the Site consists of road infrastructure but only one residential structure. The Discharger (B.J. Pearson) has recently shown interest to move forward with revised subdivision plans involving construction of 24 residential parcels averaging 26.5 acres in size (revised Project) on the Site. The 1982 WDRs, while still applicable, are outdated with respect to current pending Site development plans.

A Memorandum of Understanding (MOU) between the Water Board and Lassen County (effective March 11, 1991) currently authorizes Lassen County to approve of onsite waste disposal systems that meet all applicable "siting" or "alternative system" criteria and requirements, including prohibitions concerning density, as stated in the 1995 *Water Quality Control Plan for the Lahontan Region* (Basin Plan). This MOU is subject to oversight by the Water Board. It is therefore appropriate to rescind the Order and defer regulation of onsite waste disposal systems at Eagle Lake Estates to Lassen County pursuant to the MOU.

06-0006

The 1982 WDRs, while still applicable, are outdated with respect to current regulatory programs for onsite systems implemented by the Water Board.

In addition, future construction activities on parcels that are part of larger plan of development or sale involving more than one acre of land disturbance are subject to federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit requirements (General NPDES Permit No. 99-08-DWQ). These NPDES permit requirements pertain to pollutant discharges in storm water associated with construction activity. Dischargers of storm water associated with construction activity must apply to the State Water Resources Control Board (State Board) for permit coverage. The State Board issues the permit and responsibility for oversight (inspections, document review, etc.) is undertaken by the Water Board until coverage is terminated by the Water Board. The 1982 WDRs, while still applicable, are outdated with respect to current regulatory programs for storm water implemented by the Water Board, and do not supersede or void NPDES permitting requirements.

There is no information that previous construction or use of the structure currently at the Site poses a threat to water quality or beneficial uses of water. However, rescinding this Order does not limit the Water Board's authority if new information indicates that pollution or water contamination from or at the Site has occurred due to former operations.

**It is hereby ordered that the Board Order No. 6-82-03 be rescinded.**

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on January 14, 2009.

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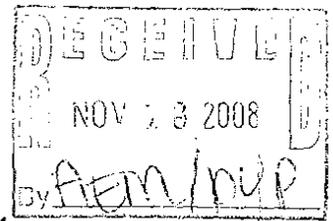
HAROLD J. SINGER  
EXECUTIVE OFFICER

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**ENCLOSURE 3**

06-0008

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# Eagle Lake Estates

November 17, 2008

Mr. Dale Payne  
Environmental Scientist  
Calif. Regional Water Quality Control Board  
2501 Lake Tahoe Blvd.  
So Lake Tahoe, CA 96150

Sir;

In response to your letter dated October 14, 2008, please be advised that I disagree with your findings in the matter of Eagle Lake Estates and either myself or legal council will be present at the meeting when this matter will be discussed.

Respectfully,

  
B.J. Pearson

06-0009

# ENCLOSURE 4

06-0010



# California Regional Water Quality Control Board

## Lahontan Region



Linda S. Adams  
Secretary for  
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150  
(530) 542-5400 • Fax (530) 544-2271  
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger  
Governor

September 15, 2008

Conrad B. Montgomery, Director  
County of Lassen, Community Development Department  
707 Nevada Street, Suite 5  
Susanville, CA 96130-3912

### COMMENTS ON THE NOTICE OF DECISION TO PREPARE A NEGATIVE DECLARATION, EAGLE LAKE ESTATES PROJECT, LASSEN COUNTY (SCH #2008082103)

The California Regional Water Quality Control Board, Lahontan Region (Water Board) received information in the above-cited matter with a request for comments. The project involves a tentative subdivision map to divide a 635-acre parcel into 24 residential parcels averaging 26.5 acres in size approximately 1.5 miles north of Buck Bay at Eagle Lake.

#### Background

The Water Board adopted waste discharge requirements (WDRs, Board Order No. 6-82-03) on January 14, 1982, for the "Eagle Lake Estates" project then proposed (by B. J. Pearson) as a 35-lot subdivision with a minimum of 20 acres per lot. The proposed Project would appear to be very similar to that earlier project, with a reduction in the number of lots. Wastes subject to regulation under the existing WDRs include waste earthen materials, storm water associated with construction, and domestic wastewater from individual onsite disposal systems. We do not know exactly which homes, if any, have been built under the current WDRs, but our files indicate some road and culvert construction on the project. Staff enforcement letters concerning chronic failure to submit required annual monitoring reports to the Water Board were issued on September 26, 1988 and March 9, 2000. Our files contain only two of the twenty-six required annual monitoring reports; reports received April 26, 2002, and April 4, 1991. The last inspection by Water Board staff on May 5, 2000, noted erosion on upper roads and that no recent construction was occurring.

#### Comments on Information in the Environmental Documents

1. The 1982 WDRs, while still applicable, are outdated with respect to current regulatory programs implemented by the Water Board. Staff intends to prepare a proposed rescission Order for adoption by the Water Board at a public meeting; rescission (or termination of the WDRs) would occur only after opportunity for comment and a public hearing, if requested by an interested person. (This is not intended as a

punitive action, but rather as part of the Water Board's ongoing program to rescind outdated WDRs.)

2. Future construction activities on the larger parcel or individual lots involving more than one acre of land disturbance are subject to federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit requirements implemented by the State Water Resources Control Board (State Board's) and the Water Board. These NPDES permit requirements pertain to pollutant discharges in storm water associated with construction activity. These requirements are noted at pp. 14 and 29 of the Initial Study, but are somewhat misstated. To clarify, under the current requirements of the State Water Board's Water Quality Order 99-08-DWQ (the General Permit, see [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/finalconstpermi t.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/finalconstpermi t.pdf)), the applicant for coverage must apply to the State Board for permit coverage as described in the Order. The Water Board is notified by the State Board when coverage is issued and assumes responsibility for oversight (inspections, document review, etc.) until coverage is terminated by the Water Board. The General Permit is subject to change every five years, was adopted in 1999, and is in the process of being reissued (see [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)).

Setting these requirements aside momentarily, the Negative Declaration is deficient in that it nowhere describes the specific mitigation measures that will be required by the Lead Agency and applied to demonstrate that impacts identified on p. 13 of the Initial Study, letters c., d., e., and f., will be reduced to insignificant levels. Simply stating that certain permits are required is not adequate for demonstrating compliance with CEQA requirements, and we therefore disagree with these assertions about the significance of impacts. For instance, the Initial Study should identify erosion and storm water control features for road, driveway, and pad grading, excavations, and cut and fill slopes on the project site, and how these mitigate potential impacts to water quality.

3. Any land disturbing activity, fill or proposed structure within riparian areas or wetlands on the project site (e.g., culvert installations) tributary to Eagle Lake may require new WDRs from the Water Board, and/or a federal Clean Water Act section 404 permit from the U.S. Army Corp of Engineers and section 401 certification by the Water Board. (Please correct information concerning "certifications" by the Water Board in several locations in the Initial Study, e.g., p. 14; we understand no impacts to surface waters are identified by the Lead Agency.)

4. Onsite waste disposal is inadequately addressed in the Initial Study, again, by only stating applicable requirements of the Water Board. In general, the current regulatory requirements applicable to septic systems are similar to, but not identical to, the requirements contained in the WDRs (see also, comment in 1., above). This is an additional reason for proposing rescinding the WDRs. In addition, the current requirements are misstated in the Initial Study at p. 11.

06-0012

To clarify, the current requirements of the Water Board are as stated in the 1995 *Water Quality Control Plan for the Lahontan Region* (Basin Plan), Chapter 4.1 concerning waste discharge prohibitions, and Chapter 4.4, pertaining to individual waste disposal systems (see [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/docs/ch4\\_implementationplans.pdf](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/docs/ch4_implementationplans.pdf)). However, the County of Lassen, Environmental Health Department has been delegated authority to approve and regulate installation of onsite waste disposal systems, except as prohibited, pursuant to Water Board Resolution No. R6T-2004-0026 (enclosed), and a Memorandum of Understanding (MOU) with Lassen County that became effective on March 11, 1991. In addition, on February 6, 1998, the Water Board Executive Officer delegated authority to Lassen County to approve of "alternative systems" consistent with Basin Plan requirements. To summarize, the MOU currently authorizes Lassen County to approve of onsite waste disposal systems that meet all applicable "siting" or "alternative system" criteria and requirements, including prohibitions concerning density, as stated in the 1995 Basin Plan.

Currently, the Water Board has evidence that the siting requirements of 20 acres as a minimum parcel size will be met on the Project, based on the Initial Study and information in our files. We note that individual water wells are to be constructed on each lot by the applicant, but individual waste disposal systems will be the responsibility of future lot owners. There is no guarantee that ALL applicable Basin Plan siting criteria will be met on each lot, including sufficient soil depth, infiltration rates, and setback requirements from domestic water wells, fills, cuts and property lines. We state this in full recognition of the large parcel size because our staff's experience with this area is that the soils may be inadequate to find suitable areas for waste disposal on each proposed parcel.

Since the approval of septic systems is currently the responsibility of the Lead Agency, Lassen County, we strongly recommend that the applicant be required to demonstrate that applicable Basin Plan requirements are met on each proposed parcel prior to including it in the subdivision. These requirements include suitable "replacement" area to replace aging/failing onsite waste disposal systems. To do otherwise during the Project planning is setting up potential property owners for difficulties with obtaining subsequent required development approvals. Again, simply citing applicable requirements of the Water Board (Initial Study, p. 11, letter e) is not an acceptable substitute for making required CEQA findings that the Project impacts are less than significant, because Lead Agency approval could result in violating Basin Plan requirements and prohibitions as discussed herein. We therefore disagree with this finding and suggest an Environmental Impact Report is required by CEQA if the County can not make required findings concerning the adequacy of waste disposal on each lot.

### Conclusions

Thank you for the opportunity to comment. We appreciate the opportunity to help clarify matters concerning this Project, especially with regard to onsite waste disposal. We

Conrad B. Montgomery

- 4 -

would appreciate your response. If you have questions you may contact me at (530) 542-5430, or Dale Payne, Environmental Scientist, at (530) 542-5464.



Alan Miller, P.E.  
Chief, North Basin Regulatory Unit

Enclosure: Resolution No. R6T-2004-0026

CC: State Clearinghouse  
County of Lassen, Environmental Health Department

AEM/adw/T: Eagle Lake Estates CEQA Comments.doc  
File Under: Lassen County, Eagle Lake Estates Project, WDJD 6A1880250058

06-0014

*California Environmental Protection Agency*

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