



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
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Arnold Schwarzenegger
Governor

MINUTES

July 25-26, 2006

TOUR

Tuesday, July 25, 2006 – 1:00 p.m. to 3:45 p.m.

Regional Water Board members, Regional Water Board staff and interested persons met in the South Lake Tahoe Airport's parking lot where they boarded a bus and toured two sites in the Upper Truckee River Watershed in South Lake Tahoe.

1. CLOSED SESSION

The closed session scheduled for July 25, 2006 at 4:00 p.m. at the South Lake Tahoe Council Chambers was cancelled. The Water Board did not meet in closed session during the July 25-26, 2006 meeting.

REGULAR MEETING

Tuesday, July 25, 2006 – 7:00 p.m.

South Lake Tahoe Airport
City Council Chambers
1901 Airport Road
South Lake Tahoe, CA 96150

Dr. Horne, Chair, called the meeting to order at 7:00 p.m. on July 25, 2006.

BOARD MEMBERS PRESENT

*John Brissenden, Hope Valley (July 26 only)
Jim Chapman, Susanville
Keith Dyas, Rosamond
Amy Horne, Ph.D., Truckee
Eric Sandel, Truckee
Susan J. Van Dam, Barstow

BOARD MEMBERS ABSENT

*John Brissenden, Hope Valley (July 25)
Jack Clarke, Apple Valley

*Mr. Brissenden was absent on July 25, 2006. He was present on July 26, 2006.

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LEGAL COUNSEL

David Coupe, State Water Resources Control Board

STAFF PRESENT

Harold J. Singer, Executive Officer	Robert Larsen, Environmental Scientist
Robert S. Dodds, Assistant Exec. Officer	Alan Miller, Senior WRCE
Lauri Kemper, Supervising WRCE	Dave Roberts, Environmental Scientist
Laurie Applegate, Executive Assistant	Eric Shay, Office Technician
Robert Erlich, Environmental Scientist	Erich Simon, WRCE
Scott Ferguson, Senior WRCE	Doug Smith, Senior Engineering Geologist
Anne Holden, Engineering Geologist	Eric Taxer, WRCE

ADDRESSING THE BOARD

Dave Achey, Homewood Village Resort, LLC
Steven H. Blum, State Water Resources Control Board
Neil Eskind, North Tahoe Public Utility District
Mark D. Hudak, Carr, McClellan, Ingersoll, Thompson & Horn
John Reuter, Ph.D., University of California at Davis
S. Geoffrey Schladow, Ph.D., University of California at Davis
Bruce L. Shaffer, Lewis Brisbois Bisgaard & Smith LLP

2. PUBLIC FORUM

No one addressed the Board during the Public Forum.

3. MINUTES

Minutes of the Regular Meeting of June 14-15, 2006 in Mammoth Lakes

- **Motion:** Moved by Mr. Dyas, seconded by Mr. Sandel and **unanimously carried** to adopt the June 14-15, 2006 minutes as proposed.
Note: Mrs. Van Dam abstained as she did not attend the June meeting.

REPORT ON TAHOE TOTAL MAXIMUM DAILY LOAD

4. Presentation of the Lake Tahoe Clarity Model Results and the Discussion of the Lake Tahoe Total Maximum Daily Load for Fine Sediments and Nutrients

Dave Roberts gave the staff presentation and answered questions from the Board.
Lauri Kemper updated the Board on Pathway 2007.

Addressing the Board: S. Geoffrey Schladow, Ph.D. and John Reuter, Ph.D., University of California at Davis.

No Board action was taken on this item.



PLANS AND POLICIES

5. Resolution of Intent to Improve Regulatory Coordination of Forestry Activities within the Lake Tahoe Basin

Lauri Kemper gave the staff presentation and recommended the Board adopt the Resolution as proposed.

- **Motion:** Moved by Mr. Chapman, seconded by Mr. Sandel and **unanimously carried** to adopt the Resolution as proposed.

Dr. Horne discussed Lake Tahoe policy objectives related to fuel reduction projects and Lake Tahoe clarity. She suggested the Board promote fuel reduction projects that reduce fire hazard without adversely affecting Lake Tahoe's clarity (in less sensitive watersheds, on less sensitive soils, and using harvest techniques that won't generate pollutants); and promote research outside of the Lake Tahoe Basin where Lake Tahoe's clarity would not be impaired.

Mr. Singer noted Regional Board staff has encouraged demonstration projects, however, locating project proponents willing to fund the projects has been difficult. Mr. Singer recently met with United States Senator John Ensign's staff (Nevada) regarding concerns about the high cost of fuel reduction in the Tahoe Basin. Senator Ensign plans to propose legislation to provide for a hazardous fuels reduction plan for the Lake Tahoe Basin. Mr. Singer noted he suggested that a portion of the funding be set aside for monitoring fuel reduction projects outside of the Basin with the goal of improving fuel management inside the Basin.

Following discussion, Vice Chair Keith Dyas temporarily served as Chair and Dr. Horne presented the following motion:

- **Motion:** Moved by Dr. Horne, seconded by Mr. Chapman and **unanimously carried** for Lahontan to promote research about fuel reduction and its impact on soil disturbance and compaction in places where reducing fire hazard is the only goal, i.e., outside the Tahoe Basin, and discover better ways to perform those activities without generating the types of pollution that impair Lake Tahoe's clarity.

ENFORCEMENT

6. *Public Hearing* – Consideration of a Cease and Desist Order for Homewood Village Resorts, LLC, and Rescission of Cease and Desist Order No. R6T-2006-0007 for JAY, LLC, for Discharge and Threatened Discharge of Waste from Homewood Mountain Resort in Violation of Waste Discharge Requirements Contained in Board Order No. 6-95-86A2

This item was postponed to July 26, 2006 due to lack of a quorum.



STATUS REPORT

7. Executive Officer's Report

- Mr. Singer discussed items from the July 2006 written report.
- Mr. Singer discussed issues related to LACSD 14 and 20. Mr. Coupe noted two informational items are to be presented by the prosecution team at the September Board meeting related to LACSD 14 and 20. The items will provide the District with the opportunity to present information to the Board, give the prosecution team the opportunity to outline options available to the Board and make recommendations, and allow the Board to give direction to the prosecution team.

Mr. Sandel strongly suggested that staff present all options available to the Board and make specific recommendations. He commented that in addition to the prosecution team's presentation, he would like Mr. Coupe of the Board's advisory team to outline all options available to the Board and provide the Board with recommendations regarding the options that would be most effective. Mr. Coupe concurred. Mr. Chapman asked Mr. Coupe to include the options that are and are not available to the Board due to pending litigation.

Mr. Dyas commented that the reduction of nitrates entering the groundwater is a result of actions taken by the Board and suggested that staff include progress made when presenting written material to the Board.

Mr. Sandel discussed the Schedule of Tasks for LACSD 14 and 20 included in the written material for the Executive Officer's Report and asked that additional information be provided in the "Status" column. He suggested that staff include the reasons why due dates were not met. Mr. Singer concurred.

- Mr. Singer will be attending a Palmdale Water District meeting on August 21. He will explain the Board's role in future cleanup of groundwater.
- Mr. Singer and Mr. Dodds recently met with Assemblywoman Sharon Runner and Senator George Runner regarding LACSD 14 and 20 issues.
- An article recently appeared in the Antelope Valley Press regarding a water supply shortage and curtailment of water at construction sites in the Antelope Valley. Mr. Singer noted there is a large amount of construction in the Antelope Valley and water is needed for dust control and compaction. The Executive Officer is authorized to issue water reclamation requirements without coming before the Board. Mr. Singer noted he plans to issue water reclamation requirements for a small-scale project should a project proponent come forward with completed CEQA documentation. No Board member objected.
- Mr. Singer discussed a meeting he recently attended regarding the Management Agency Agreement (MAA) between the U.S. Forest Service (Region 5) and the State Water Resources Control Board. Attending the meeting were the Chair and

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Deputy Director of the State Water Board, the Assistant Regional Forester of the U. S. Forest Service and representatives of four Regional Water Boards. Two follow-up meetings are planned to discuss issues related to the MAA.

- Mr. Singer discussed an issue in the unsewered portion of San Bernardino County. Staff is receiving approximately 12 tract maps a year with approximately 100 units per tract to be developed on septic systems meeting the Basin Plan's two per acre density requirement. While these developments are presently some distance from sewers, infill may bring sewers much closer very soon, but after the development is complete. The Santa Ana Regional Board addressed a similar issue in its Basin Plan. Staff can impose requirements on a tract-by-tract basis or could prepare a Basin Plan amendment for consideration by the Board. Bob Dodds will be meeting with San Bernardino County staff to discuss issues related to this matter.
- Mr. Singer handed out three press releases from other Regional Water Boards.
- Mr. Singer discussed the August 10 Tahoe Summit. He asked Board members to let him know if they would like to attend the Summit.
- Mr. Dodds answered questions regarding the underground storage tank list.

The evening session recessed at 10:15 p.m.

Regular Meeting, continued
8:30 a.m., July 26, 2006

Dr. Horne, Chair, called the meeting to order at 8:30 a.m. Board members present: John Brissenden, Jim Chapman, Keith Dyas, Eric Sandel and Susan Van Dam. Board member absent: Jack Clarke.

8. PUBLIC FORUM

No one addressed the Board during the Public Forum.

ENFORCEMENT

- 6. *Public Hearing – Consideration of a Cease and Desist Order for Homewood Village Resorts, LLC, and Rescission of Cease and Desist Order No. R6T-2006-0007 for JAY, LLC, for Discharge and Threatened Discharge of Waste from Homewood Mountain Resort in Violation of Waste Discharge Requirements Contained in Board Order No. 6-95-86A2***

Note: This item was postponed from July 25, 2006 due to lack of a quorum. A quorum of the Board was present on July 26, 2006.

Mr. Sandel declared a conflict of interest and did not participate in this item.



Chair Horne opened the public hearing and administered the oath.

Robert Erlich gave the staff presentation and recommended the Board adopt the Cease and Desist Order as proposed.

Addressing the Board: Dave Achey, General Manager, Homewood Village Resort, LLC.

With no further testimony, Chair Horne closed the public hearing.

- **Motion:** Moved by Mr. Brissenden and seconded by Mrs. Van Dam to adopt the Cease and Desist Order as proposed. Chair Horne called the roll.
Voting yes: Mr. Brissenden, Mr. Chapman, Mr. Dyas, Mrs. Van Dam and Dr. Horne
Voting no: None
Recused: Mr. Sandel
Motion unanimously carried.

9. ***Continued Public Hearing – Consideration of an Administrative Civil Liability for C. Geoffrey and Christine Davis, Hans and Margaret Coffeng, and Pacific Built, Inc., for Violation of Waste Discharge Prohibitions Prescribed in the Water Quality Control Plan for the Lahontan Region, for the Unauthorized Discharge of Untreated Domestic Wastewater to Lands Below the Highwater Rim of Lake Tahoe on July 19, 2005 at 7770 and 7780 North Lake Boulevard, Kings Beach***

Note: This item was transcribed by an electronic court reporter. To purchase a transcript, contact Peters Shorthand Reporting Corporation at (916) 362-2345. The item was also recorded.

Mr. Sandel declared a conflict of interest and did not participate in this item.

David Coupe, advisor to the Board, asked the Chair for a 10-minute recess to accommodate a request by Mr. Shaffer, attorney representing Pacific Built. Chair Horne noted the meeting would reconvene at 9:00 a.m.

Bruce Shaffer, counsel for Pacific Built, requested an additional 10-minute recess. Chair Horne noted the meeting would reconvene at 9:15 a.m.

Mr. Shaffer asked the Board to continue the public hearing to the October Board meeting to give the parties involved additional time to pursue a Supplemental Environmental Project (SEP) to present to the Board.

Steven Blum, attorney representing the prosecution team, supported Mr. Shaffer's request for continuance to the October meeting for the purpose of pursuing a SEP that would benefit Lake Tahoe.

Mark Hudak, counsel for C. Geoffrey and Christine Davis and co-counsel for Hans and Margaret Coffeng, supported Mr. Shaffer's request for continuance to the October meeting for the purpose of pursuing a SEP that would be beneficial to the Lake Tahoe Basin.



Mr. Coupe outlined the options available to the Board. He noted that if the Board decided to continue the hearing to October, no new evidence or testimony would be accepted. He also noted that should the effort to work out a SEP fail, he would recommend that the Board be prepared to immediately hold the public hearing.

Mr. Singer noted the Board had historically considered SEPs and recommended the Board continue the public hearing to the October Board meeting to allow time for the parties to work on a SEP.

Mr. Blum explained that the prosecution team bore some responsibility for the last minute request for a continuance to work out the details of a SEP.

Mr. Chapman expressed concern that the public's right to participate in the process be protected. Mr. Blum outlined the process to be followed to allow for the public's participation.

Neil Eskind, attorney representing the North Tahoe Public Utility District (NTPUD), commented that the NTPUD does not oppose a continuance and offered to discuss the SEP the parties had been working on. Mr. Shaffer objected to the discussion of the SEP and Chair Horne ruled in Mr. Shaffer's favor.

Dr. Horne expressed concern that the Board members had not deliberated on the evidence heard in May. She noted that it would be difficult for the parties to propose a SEP without knowing the Board's thoughts regarding the evidence presented.

Mr. Coupe recommended against Board discussion about a SEP. He noted the decision before the Board was whether to continue the hearing to the October meeting with the understanding that a SEP would be proposed and include in the notice that in the alternative, if a SEP does not move forward, the Board would conduct the public hearing.

Board members discussed the request for continuance.

- **Motion:** Moved by Mr. Dyas, and seconded by Mr. Chapman to continue the public hearing to the October Board meeting.
Voting yes: Mr. Chapman, Mr. Dyas, Dr. Horne and Mrs. Van Dam
Voting no: Mr. Brissenden
Recused: Mr. Sandel
Motion carried 4-1



OTHER BUSINESS**10. Reports by Chair and Board Members**

Mr. Brissenden handed out two pictures taken in May 2006 showing the condition of Big Meadow Trail and Creek. The U.S. Forest Service previously received grant funding to reroute the trail out of the flood plain of the meadow. Mr. Brissenden noted the repair and maintenance performed by the Forest Service has not corrected the failures of the trail in the flood plain. Mr. Brissenden asked staff to put an item on the agenda for the Board's consideration at the next meeting in the north.

Dr. Horne handed out and discussed an article that appeared in California Agriculture regarding the results of research conducted on a wildfire that occurred at Heavenly Valley. Dr. Horne handed out information contained in the Regional Water Board's October 13-14, 2004 agenda package regarding a sewer connection ban workshop.

11. ADJOURNMENT OF MEETING

With no further business to come before the Board, the meeting adjourned at 10:30 a.m.

Prepared by: _____ Adopted: September 14, 2006
Original signed by:
Laurie Applegate, Executive Assistant

