

## Lahontan Regional Water Quality Control Board

# MINUTES

July 11-12, 2012

### Regular Meeting

Lahontan Regional Water Quality Control Board Annex  
971 Silver Dollar Avenue  
South Lake Tahoe, CA 96150

#### Board Members Present

Don Jardine, Chair, Markleeville  
Amy Horne, Ph.D., Truckee  
Peter C. Pumphrey, Vice Chair, Bishop  
Keith Dyas, Rosamond

#### Board Member Absent

Jack Clarke, Apple Valley  
Eric Sandel, Truckee

#### Legal Counsel

Kimberly Niemeyer, Office of Chief Counsel, State Water Resources Control Board  
David Boyers, Office of Enforcement, State Water Resources Control Board  
Vanessa Young, Office of Enforcement, State Water Resources Control Board  
Andrew Tauriainen, Office of Enforcement, State Water Resources Control Board

#### Staff Present

Patty Z. Kouyoumdjian, Executive Officer  
Lauri Kemper, Assistant Executive Officer  
Charles Curtis, Supervising WRCE  
Doug Smith, Supervising Engineering Geologist  
Mike Plaziak, Supervising Engineering Geologist  
Richard Booth, Senior Engineering Geologist  
Doug Cushman, Senior WRCE  
Dr Bruce Warden, Environmental Scientist  
Cindy Wise, Staff Environmental Scientist  
Eric Taxer, WRCE

Carly Nilson, Environmental Scientist  
Alanna Misico, Student  
Kelly Huck, Student  
Lisa Petrusa, Student  
Raina Patrocinio, Student  
Kelsey Smith, Student  
Sue Genera, Executive Assistant  
Lisa Scorable, Engineering Geologist  
Scott Ferguson, Senior WRCE

**Regular Meeting July 11, 2012, 1:30 p.m.****Addressing the Board**

Kevin Kester, California Cattlemen's Association  
Tom Leavell, Rancher  
Mary Leavell, Rancher  
Davere Dressler, California Rangeland Trust  
Todd Gansberg, Gansberg Ranch  
Jeff Hunewill, Rancher  
George Milovich, Inyo/Mono Counties Agricultural Commission  
Marcus Bunn, Centennial Ranch  
John Lacey, Centennial Ranch  
Bill Thomas, Centennial Ranch  
Margo Parks, California Cattlemen's Association  
Jack Landy, U.S. EPA  
Marvin Tebeau, Resource Concepts, Inc.  
Ken and Mary Estes, Homeowner  
Mitchell Naylor, Homeowner  
Laurel Winters, Homeowner

**INTRODUCTIONS**

Chairman Don Jardine called the meeting to order as a Subcommittee at 1:30 p.m. on July 11, 2012, and introduced Board members. Quorum was established at 2:45 p.m.

Patty Z. Kouyoumdjian, Executive Officer, introduced Legal Counsel and Water Board staff.

**OTHER BUSINESS**1. **MINUTES**

**Minutes of the Special Meeting of March 29, 2012 in Barstow, Regular Meeting of April 11-12, 2012 in South Lake Tahoe, and Subcommittee Meeting of June 13, 2012 in Barstow.**

Dr. Horne requested a correction to the June Minutes:

**Item 3:** peer peer reviewed

Ms. Kouyoumdjian made a correction to the June Minutes:

**Item 3:** ~~OHH~~ OEHHA

- **Motion:** Moved by Dr. Horne, seconded by Mr. Dyas, and **unanimously carried** to adopt minutes as amended.

Click here to view the adopted [March 29 Minutes](#), [April Minutes](#), [June Minutes](#).

## 2. **ADOPTION OF UNCONTESTED CALENDAR**

Note: An (\*) appears next to items adopted by the Board on the uncontested calendar.

- **Motion:** Moved by Dr. Horne, seconded by Mr. Pumphrey and **unanimously carried** to adopt Item 3, Item 4, and Item 5 on the uncontested calendar.

### **REVISED WASTE DISCHARGE REQUIREMENTS**

3. \* **Waste Discharge Requirements for Antelope Valley Public Landfill, Los Angeles County – Board Order No. R6V-2012-(Proposed) – WDID No. 6B19112004**

Click here to view adopted [Board Order No. R6V-2012-0042](#)

4. \***Barstow Class III Landfill, Class II Surface Impoundments, and Septage Sludge Landfarm, San Bernardino County – Board Order No. R6V-2008-0025 – WDID No. 6B360304005**

Click here to view adopted [Board Order No. R6V-2012-0037](#)

5. \***California Department of Fish and Game; Black Rock Fish Hatchery, Inyo County – R6V-2006-0031 – WDID No. 6B140800003**

Click here to view adopted [Board Order No. R6V-2012-0038](#)

\*See Item No. 3 for Board Action.

### **WORKSHOP**

#### 6. **Workshop on Livestock Grazing and Water Quality**

Water Board Staff, Cindy Wise, Carly Nilson, and Dr. Bruce Warden, addressed the Board and gave a power point presentation on Livestock Grazing and Water Quality. In their presentation they highlighted; benefits and impacts of grazing, state-wide coordination activities, regional monitoring activities, grant support, water quality objectives for bacteria, and the process to amend the Basin Plan. Dr. Horne asked when a draft of the Basin Plan Amendment (BPA) would be released. Staff estimated 5 years or 2017. Mr. Pumphrey asked if this timeframe could be reduced if just one specific watershed plan was amended. Staff responded yes, that the timeframe could be reduced by years especially if substantial data had already been obtained for that area. Mr. Pumphrey also asked if the goal of the BPA was to set one bacterial standard (currently set at 20 colonies per 100 ml) for the entire region, to which staff responded yes.

#### **Public Comments**

- Public comment was received from; Bill Thomas, John Lacey, Marcus Bunn, Kevin Kester, George Milovich, Jeff Hunewill, Todd Gansberg, Davere Dressler, Mary Leavell, and Tom Leavell (hereto, Ranchers). The Ranchers expressed their commitment to water quality, within a budget and of an obtainable standard. Many Ranches in the area have spent considerable funds on Best Management Practices (BMPs), creating fences, restoring riparian areas, and implementing

rotational grazing and irrigation management. Even with all BMPs in place, the bacterial standard issued in the 2007 Conditional Waiver of 20 colonies per 100 ml is not consistently being met. It is the Ranchers' opinion that a different standard be set in agricultural areas of the Region. Additionally, if the bacterial standard is not raised in agricultural areas then it will either preclude grazing in this Region or result in enforcement actions.

- Jack Landy, from U.S. EPA, addressed the Board in support of the timeline set forth by Water Board staff to implement a new BPA and the proposed Waiver for the Bridgeport and East Walker River Watersheds.
- Marvin Tibeau addressed the Board and presented a June 2012 report entitled "*Resource and Economic Values Derived from Irrigated Agriculture in the Bridgeport Valley, California*"

#### Board Discussion

Dr. Horne thanked the Ranchers for coming to the Board meeting and agreed that 20 colonies per 100 ml is not an attainable standard for their watershed. Dr. Horne stated that even if it takes five years to create a BPA, there will be less uncertainty with a scientific standard. In the interim, a Memorandum of Understanding could be established to give the Ranchers some security that an enforcement action will not be brought against them. Mr. Dyas concurred with Dr. Horne and stated that it is the Board's responsibility to make reasonable and responsible decisions. Mr. Pumphrey did not believe that a single standard could be achieved for the entire Region and directed Staff to bring back options to move more quickly on a resolution for the Ranchers in the East Walker River Watershed. In addition to this request, Dr. Horne directed Staff to bring back options on an approach other than a BPA which is lengthy to produce. Chair Jardine was in support of the Ranchers and agreed that a one size does not fit all in this case. The Executive Officer stated that Staff would report back to the Board.

NOTE: The Board took a break from 4:12 p.m. to 4:23 p.m.

#### **PERMITS – REVISIONS, UPDATES, AMENDMENTS OR RESCISSIONS**

##### **7. Renewal Of General Conditional Waiver Of Waste Discharge Requirements For Grazing Operations In The East Walker River Watershed (Bridgeport Valley And Tributaries) Of The Lahontan Region**

Mr. Pumphrey stated that he acts an advisor to the Eastern Sierra Land Trust who submitted a letter for the record on this Item. Mr. Pumphrey did not consult or discuss this Waiver with the Eastern Sierra Land Trust or its Board.

Dr. Bruce Warden addressed the Board and gave a power point presentation outlining the Waiver.

#### Public Comments

The Board heard Public Comments from Bill Thomas, Jack Landy and Margo Parks.

### Board Discussion

The Board discussed changes to the Waiver that would address the concerns raised in Public Comment. Staff proposed amended language to the Waiver.

- **Motion:** Moved by Mr. Pumphrey, seconded by Dr. Horne and **unanimously carried** to adopt Item 7, the Renewal of General Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the East Walker River Watershed as amended.

Click here to view adopted [Board Order No. R6T-2012-0041](#)

NOTE: The Board recessed for dinner from 5:06 p.m. to 7 p.m.

### 8. **PUBLIC FORUM**- No Comments

### **ENFORCEMENT**

### 9. **Public Hearing – Consideration of Rescinding Multiple Cease and Desist Orders for Dischargers within the Spalding Tract Subdivision, Eagle Lake Basin, Lassen County**

- **Motion:** Moved by Mr. Pumphrey, seconded by Mr. Dyas and **unanimously carried** to adopt Item 9, Rescission of Multiple Cease and Desist Orders for Dischargers within the Spalding Tract Subdivision.

Click here to view adopted [Board Order No. R6T-2012-0043](#)

### **ITEMS 10-17**

Assistant Executive Officer, Lauri Kemper addressed the Board and presented a History of the Spalding Tract Subdivision and a chronology of Order compliance from 1991 to present. Lisa Scorallo addressed the Board and detailed the methodology behind the liability amount. The Board heard testimony from three homeowners in the Spalding Tract Subdivision: Ken & Mary Estes, Mitchell Naylor, and Laurel Winters. The Board recessed into Closed Session from 8:32 p.m. to 9:07 p.m. and again from 9:57 p.m. to 10:38 p.m. to deliberate.

- **Motion:** Moved by Mr. Pumphrey, seconded by Mr. Dyas, and **unanimously carried** to adopt Items 10, 11, 13, & 16, Administrative Civil Liability Orders for Dischargers within the Spalding Tract Subdivision with amended language and liability amounts.
- **Motion:** Moved by Mr. Pumphrey, seconded by Dr. Horne, and **unanimously carried** to postpone the final resolution on Item 17 until October 2012.
- **Motion:** Moved by Mr. Pumphrey, seconded by Dr. Horne, to postpone the final resolution on Items 12, 14, & 16 until October 2012, and the motion carried per the following votes:

AYE: Dr. Horne, Mr. Jardine, Mr. Pumphrey  
NO: Mr. Dyas

Further direction from the Board for Items 12, 14, and 16: Notify the people involved, Mr. Neil (representing himself and NANCO, Inc.) and Mr. Robinson, that to Mr. Robinson, his continuance was not granted, and to both parties that the Hearing was held, evidence was received, the evidence that was received and other material in the Hearing included a recommendation that they be assessed a penalty of XXX (insert amount for each party). This matter is being postponed for final disposition until October 2012 to give them an opportunity to come into compliance and take advantage of the remaining construction season.

**10. Public Hearing - Consideration of an Administrative Civil Liability Order for Estes, Kenneth P. & Mary L. JT for Violating Cease and Desist Order No. R6T-2009-0081, Spalding Tract Subdivision, Lassen County APN 077-233-47-11**

Click here to view adopted [Board Order No. R6T-2012-0044](#)

**11. Public Hearing - Consideration of an Administrative Civil Liability Order for Helmer, Nason James & Gail Ann Revocable Trust for Violating Cease and Desist Order No. R6T-2009-0096, Spalding Tract Subdivision, Lassen County APN 077-372-16-11**

Click here to view adopted [Board Order No. R6T-2012-0045](#)

**12. Public Hearing - Consideration of an Administrative Civil Liability (ACL) Order for NANCO, Inc. (Discharger) for Violating Cease and Desist Order No. R6T-2009-0108, Spalding Tract Subdivision, Lassen County APN 077-292-11-11**

This Item was postponed until October 2012.

**13. Public Hearing - Consideration of an Administrative Civil Liability (ACL) Order for Naylor, Mitchell Creigh & Ginger JT for Violating Cease and Desist Order No. R6T-2009-0109, Spalding Tract Subdivision, Lassen County APN 077-401-11-11**

Click here to view adopted [Board Order No. R6T-2012-0046](#)

**14. Public Hearing - Consideration of an Administrative Civil Liability (ACL) Order for Neil, Gerald & Janet JT for Violating Cease and Desist Order Nos. R6T-2009-0088, R6T-2009-0089, R6T-2009-0090, R6T-2009-0091, R6T-2009-0092, and R6T-2009-0093, Spalding Tract Subdivision, Lassen County APNs 077-361-23-11, 077-143-10-11, 077-163-06-11, 077-271-09-11, 077-272-43-11, and 077-133-10-11**

This Item was postponed until October 2012.

**15. Public Hearing - Consideration of an Administrative Civil Liability (ACL) Order for Robinson, Gary L. for Violating Cease and Desist Order Nos. R6T-2009-0115 and R6T-2009-0116, Spalding Tract Subdivision, Lassen County APNs 077-200-02-11 and 077-200-03-11**

This Item was postponed until October 2012.

16. **Public Hearing - Consideration of an Administrative Civil Liability (ACL) Order for Sutton, Dennis J. & Etal Deborah L. JT for Violating Cease and Desist Order No. R6T-2009-0126, Spalding Tract Subdivision, Lassen County APN 077-271-19-11** (The

Click here to view adopted [Board Order No.R6T-2012-0047](#)

17. **Public Hearing - Consideration of an Administrative Civil Liability (ACL) Order for Winters, Laurel G. for Violating Cease and Desist Order No. R6T-2009-0130, Spalding Tract Subdivision, Lassen County APN 077-162-03-11**

This Item was postponed until October 2012.

Note: The Chair adjourned the meeting at 10:42 p.m. until the follow day.

**Regular Meeting July 12, 2012, 8:30 a.m.**

**INTRODUCTIONS**

Chairman Don Jardine called the meeting to order at 8:32 a.m. on July 12, 2012, and introduced Board members.

The Executive Officer introduced Legal Counsel and Water Board staff.

18. **PUBLIC FORUM**- No Comment

**ENFORCEMENT**

19. **Public Hearing - Consideration of an Administrative Civil Liability Order for North Tahoe Public Utility District (Discharger) for the December 19, 2010 Unauthorized Discharge of Sewage to Lake Tahoe, Dollar Hill Pump Station, Placer County – WDID No. 6SSO11110**

**Addressing the Board for the Prosecution:**

Andrew Tauriainen, Office of Enforcement, State Water Resources Control Board  
Lauri Kemper, Assistant Executive Officer  
Chuck Curtis, Supervising WRCE  
Eric Taxer, WRCE

**Addressing the Board for the Discharger:**

Neil Eskind, Counsel, North Tahoe Public Utility District  
Paul Schultz, P.E., General Manager, North Tahoe Public Utility District  
John Larsen, P.E., Larsen Consulting

Eric Taxer, addressed the Board and gave a power point presentation on the North Tahoe Public Utility District's unauthorized discharge of raw sewage to Lake Tahoe on December 19, 2010. In his presentation, Mr. Taxer highlighted; discharge history, violations, and detailed the methodology behind the liability amount.

In this Hearing, the Prosecution and Discharger each were allotted an hour and a half to give opening statements, cross examine witnesses, and provide a closing statement. The Board heard from both parties and asked questions. The Board went into Closed Session to deliberate from 2:10-2:45 p.m.

- **Motion:** Moved by Mr. Pumphrey, seconded by Mr. Dyas, and **unanimously carried** to adopt Item 19, Administrative Civil Liability Order for North Tahoe Public Utility District, with amended language and liability amounts.

Click here to view adopted [Board Order No. R6T-2012-0040](#)

## **OTHER BUSINESS**

### **20. Executive Officer's Report**

Ms. Kouyoumdjian, Executive Officer (EO), addressed the Board and presented the July Written Report. Additional EO topics:

- a. Felicia Marcus has been appointed to the State Board and has been assigned to our Region.
- b. The EO sought Board direction on additions or deletions to the "Report on Status of Standing Items". Direction from the Board was to: delete the Searles Valley Minerals Item and only update the Board if needed, minimize the frequency on the two LA Sanitation District Items to annually, add a City of Barstow update semi-annually, and add a PG&E Update to all meetings held in the Southern Region.
- c. Per previous Board direction to find an independent facilitator to improve the process for the Hinkley Community Advisory Committee (CAC), staff are working with Gita Kapahi to amend the SWRCB Master Services Agreement to hire a facilitator from the CSUS Center for Collaborative Study. PG&E is offering to provide funding and staff is exploring budgeting options. Several Board Members expressed a desire to have a facilitator for the entire process, not just the CAC.
- d. Lisa Dernbach and Anne Holden will be in Hinkley, CA, July 12-13 at community meetings to help answer questions about whole house replacement water. Staff have arranged for OEHHA to attend to help answer questions about public health.
- e. The PG&E draft Environmental Impact Report (EIR) is due out early August and a public meeting on the EIR is planned for August 29. The EIR will be before the Board at the September meeting.
- f. A Notice of Violation was issued to Nursery Products Hawes Composting Facility for accepting waste prior to completion of Final Construction Quality Assurance Report & two financial assurances mechanisms.
- g. Staff are organizing a Truckee River Watershed Review set for September 18 from 9:00 to noon, and a Review of the Bridgeport cattle grazing practices for late September, early October.
- h. On June 11, 2012, Staff participated in an Angora Fire Forum hosted by Senator Gaines which was well received by the community.
- i. The Regional Board recently received the draft operational plan from the Forest Service for their South Shore Project. Staff have been working cooperatively with the Forest Service on a routine basis to help work through issues on the Project.

- j. On June 28 the EO testified before the Tahoe Regional Planning Agency Board and submitted comments on the Regional Plan and EIR. Overall Lahontan is in support of the direction of the Regional Plan, asking only for some changes to make the Plan consistent with our TMDL including all monitoring and reporting. Staff will be meeting with TRPA and Nevada to discuss actual amendments and specific changes to the Plan and EIR.
- k. The EO has reached out to Joanne Marchetta of TRPA and other local jurisdictions to explore how we can better coordinate and mesh our various water quality monitoring efforts.

## **REPORTS**

### **21. Reports by Water Board Chair and Board Members**

Dr. Horne commented that her recent Review of the Lake Tahoe TMDL Implementation with Staff was very educational. Chair Jardine reported that at the Chairs Meeting held on July 5, they discussed upcoming agenda items for the WQCC meeting, introduced new Board members, and discussed new State law reducing the number of each Regional Board from 9 to 7 members.

### **22. CLOSED SESSION - None**

## **ADJOURNMENT**

With no further business to come before the Board, the meeting adjourned at 3:20 p.m. on July 12, 2012.

Prepared by: \_\_\_\_\_

Sue Genera, Executive Assistant

Adopted: \_\_\_\_\_

September 12, 2012