



California Regional Water Quality Control Board

Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

JAN 05 2007

GTO Development
c/o Roger O'Neal
100 Wilshire Blvd., Suite 650
Santa Monica, CA 90401

Certified Mail: 7099 3220 0003 9762 0825

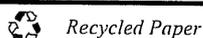
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R6V-2007-0001 ISSUED TO GTO DEVELOPMENT FOR THE DISCHARGE OF UNTREATED WASTEWATER TO SURFACE WATERS WITHIN THE UPPER MOJAVE HYDROLOGIC AREA, LAKE ARROWHEAD, SAN BERNARDINO COUNTY

Enclosed is the above-referenced Administrative Civil Liability Complaint (hereafter "Complaint"). The Complaint in the amount of **\$35,000** is issued in response to violations of water quality laws and regulations that occurred during sewer connection activities associated with the construction of the residential development known as Tract 16211 in Lake Arrowhead, San Bernardino County. Violations resulted from an unauthorized discharge of untreated wastewater ("sewage") to Fleming Creek and Lake Arrowhead within the Upper Mojave Hydrologic Area. The discharge occurred after WTA Construction Company punctured a water main that flowed into the active sewer system. The active sewer system could not handle the volume of flow from the water main break, causing the sewer system to overflow from three manholes to land and surface waters on June 16, 2005.

If you decide to waive a hearing regarding this matter and remit payment to the California Regional Water Quality Control Board, Lahontan Region ("Water Board"), sign and return the original WAIVER OF HEARING form (enclosed) to our South Lake Tahoe office. In accordance with Code of Federal Regulations, title 40, part 123.27(d)(2)(iii), a 30-day public review period must be provided prior to the Water Board considering acceptance of any settlement of proposed administrative civil liability, to allow other interested persons an opportunity to comment on the action. Following the 30-day review period, the Water Board will consider accepting the settlement during its regularly scheduled **March 14-15, 2007** meeting.

If you choose not to waive the public hearing, one will be held during the Water Board's **March 14-15, 2007** meeting. To ensure the Water Board has the opportunity to fully study and consider written material, all material must be submitted at least ten (10) days before the hearing. This will allow distribution of material to the Board Members in advance of the hearing. Pursuant to California Code of Regulations, title 23, section 648.4, the Water Board Chair may refuse to admit written testimony into evidence if submitted late, unless the proponent can demonstrate why he or she was unable to

California Environmental Protection Agency



submit the material on time or that compliance with the deadline would otherwise create a severe hardship. If any other party demonstrates prejudice from the late admission of the written testimony, the Water Board may refuse to admit it.

You may submit the Waiver of Hearing Form and payment of the recommended liability at any time up to **March 14, 2007**. However, if Water Board staff does not receive the Waiver of Hearing Form and payment of the recommended liability by **February 9, 2007**, staff will schedule a public hearing and prepare an Administrative Civil Liability Order for the Water Board's consideration at its **March 14-15, 2007** meeting. You and/or your representative would then have an opportunity to contest before the Water Board the allegations and amount of recommended liability presented in Administrative Civil Liability Complaint No. R6V-2007-0001.

You may petition the State Water Resources Control Board (State Water Board) to review the decision of the Water Board in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The State Water Board must receive the petition within 30 days after the Water Board meeting at which the action will be taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

If you have any questions or comments regarding this matter, please contact Chuck Curtis at (530) 542-5460, or Scott Ferguson at (530) 542-5432, or me at (530) 542-5410.



Robert S. Dodds
Assistant Executive Officer

Enclosures: Complaint No. R6V-2007-0001
Waiver of Hearing Form

cc (w/enclosures): Regional Board Members
David Coupe, Office of Chief Counsel, State Water Resources
Control Board
Mark Bradley, Office of Enforcement, State Water Resources Control
Board
Cindi mitton, Lahontan Regional Water Quality Control Board
Ron Fussell, Lake Arrowhead Community Services District
Chris Altmeyer, WTA Construction Company
David Fenn, Fenn-Robbins Homes

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

In the matter of GTO Development: Violation of)
Water Code Section 13376 and Waste Discharge)
Prohibitions Prescribed in the *Water Quality Control*) **COMPLAINT NO.**
Plan for the Lahontan Region for the Unauthorized) **R6V-2007-0001 FOR**
Discharge of Untreated Wastewater to Surface Waters) **ADMINISTRATIVE**
Within the Upper Mojave Hydrologic Area, Lake) **CIVIL LIABILITY**
Arrowhead, San Bernardino County)

GTO DEVELOPMENT, YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with violating provisions of law and regulations for which the California Regional Water Quality Control Board, Lahontan Region (Water Board) may impose administrative civil liability pursuant to California Water Code (Water Code) section 13385, subdivision (a)(1), and section 13385, subdivision (a)(4).
2. Unless waived, a hearing on this matter will be held before the Water Board within 90 days following the issuance of this Complaint. GTO Development, or its representatives, will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Water Board. An agenda showing the approximate time set for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Water Board will consider whether to affirm, reject, or modify (either increase or decrease) the proposed civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. Discharger

GTO Development is the legal owner of Tract 16211 (Figure 1). Fenn-Robbins Homes is GTO Development's general contractor. WTA Construction is a subcontractor hired by Fenn-Robbins Homes. GTO Development is subject to administrative civil liability because it is the sole owner of the property on which the discharge occurred, it is the permittee for coverage under State Water Resources Control Board Order No. 99-08-DWQ (NPDES General Permit for Storm Water Discharges Associated with Construction Activity), and it is ultimately responsible for activities occurring on its property. GTO Development is hereinafter referred to as the "Discharger."

5. Project

The Discharger is constructing a 41-unit residential development known as Tract 16211. Tract 16211 is located in an area that is tributary to Lake Arrowhead, adjacent to Kuffel Canyon Road. As a part of the project, the Discharger completed a new sewer connection for Tract 16211 to the Lake Arrowhead Community Services District's

(District) existing sewer system (as shown on *Sewer Improvement Plan- Tract 16211*, dated February 23, 2005).

6. Facts

- a. On June 16, 2005 at 10:30 a.m., the contractor (WTA Construction) working on sewers in Tract 16211 telephoned the District and reported that it had broken a 10-inch diameter water main.
- b. At approximately 10:45 a.m., District staff arrived at the scene of the broken water main. District staff noted that the manhole shafts on an existing manhole had been removed and that the water from the broken water main was draining through the open manhole into the active sewer system. The active sewer system could not handle the additional volume of flow from the water main break and wastewater was discharging out of three manholes. One manhole was located at the entrance to Tract 16211 and two were located within the Village Cove Development (see Figure 1). The wastewater overflow traveled via storm gutters and across private property into Fleming Creek. From Fleming Creek, the wastewater continued down to the point of the creek's entry into Lake Arrowhead, a municipal drinking water supply.
- c. Approximately one hour after the break occurred, the water main valves were located and shut off. The valve risers for the water main could not be immediately located because they had been buried with soil from heavy equipment operation and grading activities by the Discharger's contractors. As a result of stopping the potable water flow into the active sewer system, the wastewater overflows from the manholes began to subside. At approximately 12:20 p.m., sewer flows returned back to normal flow conditions, and all three manhole overflows had ceased.
- d. The District estimates that approximately 35,000 gallons of wastewater spilled during the incident. This estimate is based on the total estimate of potable water that was lost due to the water main break, 378,500 gallons, and the estimated amount of wastewater that was pumped through Lift Station 5A (located downstream from the break), 343,500 gallons. The difference between the two estimates is the assumed discharge volume.
- e. District staff performed on-site cleanup of the affected ground areas and the collection system for the next three days.
- f. On the day of the water main break, the District issued a "Precautionary Boil Water Order" to residents advising them to boil their water until testing confirmed that it was safe to drink. The water main was turned back on at 7 p.m., June 16, 2005; however, a "Cancellation of Boil Water Order" was not issued by the District until June 19, 2005.

- g. District staff posted sewage contamination warnings adjacent to the area around Fleming Creek's point of entry into Lake Arrowhead on the day of the discharge to warn the public of the sewer overflow. The District requested the Arrowhead Lake Association (ALA) to set up a spill buoy system with warning signs to keep boat activity out of the affected area. ALA patrolled the area by boat to ensure the closure.
- h. District staff collected three surface water samples from Lake Arrowhead near the mouth of Fleming Creek on June 16, 2005, at approximately 12:40 p.m., to evaluate the impact from the sewer overflows. Samples were collected at Dock #S190B, 5 Docks West #S187, and 5 Docks East #194. Samples were analyzed for total coliform, fecal coliform, and fecal streptococci.
- i. On June 20, 2005, the District received results of the surface water sampling. Sample results at Dock #S190B indicated 180 total coliform organisms per 100 mL, 23 fecal coliform organisms per 100 mL, and 21 fecal streptococci organisms per 100 mL. These concentrations were the highest of the three samples collected. Based on the sample results, which did not exceed the California Department of Health Services' Standards for surface waters adjacent to public beaches, the closed portion of the lake was re-opened.
- j. The District received a request from Underground Service Alert, also known as Dig Alert, on March 8, 2005 to mark utilities in Tract 16211. District staff marked the location of sewer lines in Tract 16211 on March 20, 21, 25 and 30 and the location of the water infrastructure including the valve risers for the water main on April 8, 14, 15, and 20. Dig Alert Ticket #A000670520 shows that the District received a request to remark utilities within a specific portion of the project area on May 26, 2005; however, no requests to remark the location of the utilities in the vicinity of the spill area were made until June 20, 2005, four days after the spill occurred.
- k. The District notified the following agencies of the unauthorized discharge on June 16, 2005:
 - Office of Emergency Services
 - Lahontan Regional Water Quality Control Board
 - Department of Health Services-Division of Drinking Water
 - San Bernardino County Environmental Health Services Department
 - California Department of Fish and Game
 - Lake Arrowhead Community Services District-Operations Department
 - Arrowhead Lake Association
- l. Lake Arrowhead and its tributaries are located within the Mojave Hydrologic Unit upstream of the Lower Narrows at Victorville. These waters are tributary to Deep Creek and are located at elevations above 3,200 feet above mean sea level, with

Lake Arrowhead at an elevation of 5,191 feet above mean sea level. Lake Arrowhead and its tributaries are waters of the United States and of the state.

7. Violation-Basin Plan Prohibitions

The Discharger violated the following prohibitions specified in the Basin Plan, adopted pursuant to Water Code section 13243.

Regionwide Prohibitions

- A. "The discharge of waste which causes violation of any narrative water quality objective contained in this Plan, including the Nondegradation Objective, is prohibited."
- B. "The discharge of untreated sewage, garbage, or other solid wastes, or industrial wastes into surface waters of the Region is prohibited. (For the purposes of this prohibition, "untreated sewage" is that which exceeds secondary treatment standards of the Federal Water Pollution Control Act, which are incorporated in this plan on page 4.4-3 under "Surface Water Disposal of Sewage Effluent.")"

Unit/Area Specific Prohibitions - Mojave Hydrologic Unit

- C. "The discharge of waste to surface water in the Mojave Hydrologic Unit that is tributary to the West Fork Mojave River or Deep Creek, above elevation 3,200 feet (approximate elevation of Mojave Forks Dam), is prohibited. This prohibition does not apply to stormwater discharges unless such discharges create a condition of pollution or nuisance. (Figure 4.1-23)"
- D. "The discharge of waste to land or water within the following areas is prohibited (Figure 4.1-23):
 - a) The Silverwood Lake watershed
 - b) The Deep Creek watershed above elevation 3,200 feet
 - c) The Grass Valley Creek watershed above elevation 3,200 feet.

This prohibition does not apply to stormwater discharges unless such discharges create a condition of pollution or nuisance. "

- E. "The discharge of wastes of sewage-bearing origin to surface waters in the Mojave Hydrologic Unit upstream of the Lower Narrows at Victorville is prohibited."

The Discharger violated prohibition A cited above when activities associated with its project (described in Finding Nos. 6.a and 6.b) resulted in the approximately 35,000-gallon discharge of raw sewage and potable water to Fleming Creek, and subsequently Lake Arrowhead, creating conditions violating the narrative water

quality objective for bacteria (coliform). The Basin Plan specifies the following narrative water quality objective for bacterial (coliform) in surface waters:

“Waters shall not contain concentrations of coliform organisms attributable to anthropogenic sources, including human and livestock wastes.”

The sewage discharge introduced coliform organisms that are directly attributable to anthropogenic sources and include human wastes.

The Discharger violated prohibitions B – E cited above when activities associated with its project (described in Finding Nos. 6.a and 6.b) resulted in the approximately 35,000-gallon discharge of raw sewage and potable water to land, Fleming Creek, and subsequently Lake Arrowhead. Fleming Creek and Lake Arrowhead are surface waters located within the Lahontan Region’s Mojave Hydrologic Unit above 3,200 feet, as discussed in Finding No. 6.I. Lake Arrowhead discharges into Deep Creek. The affected surface waters are also located upstream of the Lower Narrows at Victorville.

The Water Board did not authorize the above-referenced discharge of raw sewage and potable water to lands or surface water in the Mojave Hydrologic Unit, nor did the Water Board grant exemptions to the above-cited prohibitions.

8. Violation- Water Code Section 13376

The Clean Water Act establishes permit requirements for point source discharges to surface waters, known as the National Pollutant Discharge Elimination System (NPDES, 33 U.S. Code section 1342). California is authorized by the United States Environmental Protection Agency to administer its own NPDES program pursuant to 33 U.S. Code section 1342(b).

Chapter 5.5 of the Porter-Cologne Water Quality Control Act (Water Code section 13370 et seq.) authorizes the State and regional boards to issue waste discharge requirements, defined to be the equivalent of NPDES permits that meet all federal requirements of the Clean Water Act.

Water Code section 13376 states, in part,

“...any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States . . . shall file a report of the discharge in compliance with the procedures set forth in Section 13260 . . .”

and

“The discharge of pollutants . . . except as authorized by waste discharge requirements [NPDES permit] . . . is prohibited.”

The Discharger, by failing to file a report of waste discharge as set forth in Water Code section 13260 and failing to obtain an NPDES permit prior to the discharges described in the above Findings, has violated Water Code section 13376.

9. Administrative Civil Liability Authority

The Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (a)(1) and subdivision (a)(4). Water Code section 13385, subdivision (a) states:

“Any person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.”

The Discharger violated Water Code section 13376 as described in Finding 8. The Discharger violated prohibitions contained in the Water Board’s Basin Plan (pursuant to Water Code section 13243) as described in Finding No. 7. The Water Board can, therefore, impose civil liability pursuant to Water Code section 13385, subdivision (a)(1) and subdivision (a)(4).

PROPOSED CIVIL LIABILITY

10. Civil Liability – California Water Code

For the violation of Basin Plan prohibitions and Water Code section 13376, the Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (c). Water Code section 13385, subdivision (c) states:

“Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”

In this matter, the maximum civil liability under Water Code section 13385, subdivision (c) is \$350,000 for the discharge of a mixture of raw sewage and potable water to Fleming Creek and subsequently to Lake Arrowhead. This civil liability is based upon:

- A. One day of violating Basin Plan prohibitions and the Clean Water Act. Maximum potential liability for this element is \$10,000.
- B. The unauthorized 35,000-gallon raw sewage/potable water discharge to a surface water that was not susceptible to cleanup. The volume not susceptible to cleanup and exceeding 1,000 gallons is 34,000 gallons. Maximum potential liability for this element is \$340,000 (\$10 x 34,000 gallons).

11. Factors Affecting the Amount of Civil Liability

Water Code section 13385, subdivision (e) requires the Water Board to consider enumerated factors when it decides the amount of civil liability for a discharge covered by Water Code section 13385. The Assistant Executive Officer of the Water Board considered those factors in recommending the amount of the administrative civil liability:

- a. The nature, circumstances, extent, and gravity of the violations;

Approximately 35,000 gallons of a mixture of raw sewage and potable water overflowed from the District's sewer collection system as a result of the Discharger's subcontractor breaking a potable water main. The overflow traveled via storm gutters and across private property into Fleming Creek and ultimately into Lake Arrowhead. The District estimated that approximately 95 percent of the mixture that discharged was potable water. The District reported that the water main shutoff valves could not be immediately located because the Discharger's subcontractor had covered the valve boxes with soil. This resulted in an estimated additional 45 minutes of discharge. The discharge resulted in conditions that violated the Basin Plan's narrative water quality objective for bacteria (coliform), and consequently violated a Basin Plan prohibition, as discussed in Finding No. 7.

The discharge also adversely affected beneficial uses of Fleming Creek and Lake Arrowhead. Beneficial uses identified in the Basin Plan for Lake Arrowhead (and its tributaries by the tributary rule) include:

municipal and domestic supply (MUN)	groundwater recharge (GWR)
agricultural supply (AGR)	wildlife habitat (WILD)
water contact recreation (REC-1)	cold freshwater habitat (COLD)
non-contact water recreation (REC-2)	navigation (NAV)
commercial and sport fishing (COMM)	

The tributary rule (Basin Plan page 2-3) states:

“Unless otherwise specified, beneficial uses also apply to all tributaries of surface waters identified in Table 2-1 (i.e., specific surface waters which are not listed have the same beneficial uses as the streams, lakes, wetlands, or reservoirs to which they are tributary).”

Fleming Creek is tributary to Lake Arrowhead. Therefore, the beneficial uses designated for Lake Arrowhead are also applicable to Fleming Creek.

The REC-1, REC-2, and COMM beneficial uses were adversely affected when the discharge incident resulted in the District posting sewage contamination warnings adjacent to the affected surface waters for a five-day period. Additionally, the Arrowhead Lake Association patrolled by boat the affected portion of the lake to prevent public contact with sewage-contaminated waters. Discharging waste to waters that adversely affects beneficial uses of those waters constitutes a condition of pollution, as defined by Water Code section 13050, subdivision (l)(1). Water Code section 13050, subdivision (l)(1) states:

“Pollution’ means an alteration of the quality of waters of the state by waste to a degree which unreasonably affects either of the following:

(A) The water for beneficial uses.

(B) Facilities which serve these beneficial uses.”

A condition of pollution was therefore created when the REC-1, REC-2, and COMM beneficial uses were adversely affected by the five-day closure period resulting from the discharge incident. The discharge also had the potential for adversely affecting the MUN beneficial use of Lake Arrowhead, which provides a portion of the water supply for the Lake Arrowhead area.

This factor justifies significant liability.

- b. Whether discharge is susceptible to cleanup or abatement;

Although the District and WTA Construction provided prompt cleanup of affected ground surfaces and the sewer collection system, the bulk of the spill was not susceptible to cleanup.

This factor justifies significant liability.

- c. The degree of toxicity of the discharge;

There were no analyses performed to determine the degree of toxicity of the discharge. Untreated domestic wastewater contains pathogens that can cause sickness and (rarely) death in humans that ingest or are otherwise exposed to such materials.

This is a neutral factor in determining the amount of liability.

- d. Ability to pay;

Water Board staff is not aware of any reason that the Discharger would be unable to pay the proposed liability. The Discharger now has the opportunity to provide any financial data to the Water Board showing an inability to pay the proposed liability.

- e. The effect on the Discharger's ability to continue its business;

Water Board staff is not aware of any reason that the Discharger's ability to continue business would be affected by the proposed liability. The Discharger now has the opportunity to provide any information to the Water Board showing an inability to continue its business due to payment of the proposed liability.

- f. Any voluntary clean up efforts undertaken by the violator;

WTA Construction immediately contacted the District after puncturing the water main and provided assistance to the District in responding to the spill. The District undertook immediate efforts to clean affected ground surfaces and the collection system. No cleanup of surface waters occurred.

This factor justifies reducing the liability from the maximum amount.

- g. Prior history of violations;

The Discharger has no recorded prior violations. This factor justifies reducing the liability from the maximum amount.

h. Degree of culpability;

GTO Development is the property owner of the noted development (see Finding No. 4 of this complaint), and is also the permit holder under State Water Resources Control Board Order No. 99-08-DWQ. It is, therefore, directly and ultimately responsible for all actions related to the project that is occurring on its property.

The District received a request from Underground Service Alert, also known as Dig Alert, on March 8, 2005 to mark utilities in Tract 16211. Dig Alert Ticket #A000670520 shows that the District received a request to remark utilities on Rockledge Lane on May 26, 2005; however, the District did not receive any requests to remark the location of the utilities in the vicinity of the spill area until June 20, 2005, four days after the spill occurred. According to District staff, no Dig Alert markings were visible at the time of the spill due to soil scattered over the markings from heavy equipment operation and grading activities. It is the responsibility of the Discharger's contractor to call Dig Alert before excavating and request a remarking of utilities if the utility markings are not visible or are inadequately marked. WTA Construction punctured the 10-inch water main during sewer connection activities, and that action caused the overflow from the sewer to occur.

The Discharger's subcontractor also contributed to an increased duration of the spill because the valve risers for the water main had been covered with soil during grading activities. This resulted in an estimated additional 45 minutes of discharge since District staff had to locate the valve risers and remove excess soils before the water main could be turned off. The District had previously marked the location of the valve risers for the water main.

This factor justifies significant liability.

i. Economic savings resulting from the violation;

The Water Board is unaware of any avoided costs associated with the discharge. This is a neutral factor in determining the amount of liability.

j. Other matters as justice may require.

Water Board staff have spent time responding to the incident and preparing the administrative civil liability. Estimated staff costs for incident response and complaint preparation are \$3,426.

12. Amount of Civil Liability

The Assistant Executive Officer of the Water Board considered the above factors and proposes that administrative civil liability be imposed by the Water Board in the amount of \$35,000, pursuant to Water Code section 13385.

WAIVER OF HEARING

You may waive the right to a hearing. Waiver of your right to a hearing constitutes acceptance of the assessment of civil liability in the amount set forth within the Complaint. If you wish to waive your right to a hearing, an authorized person must sign the waiver form below, and send it with a cashier's check or money order for the full amount of the civil liability assessment, made payable to the **California State Water Resources Control Board, Cleanup and Abatement Account** and mailed, to the address below.

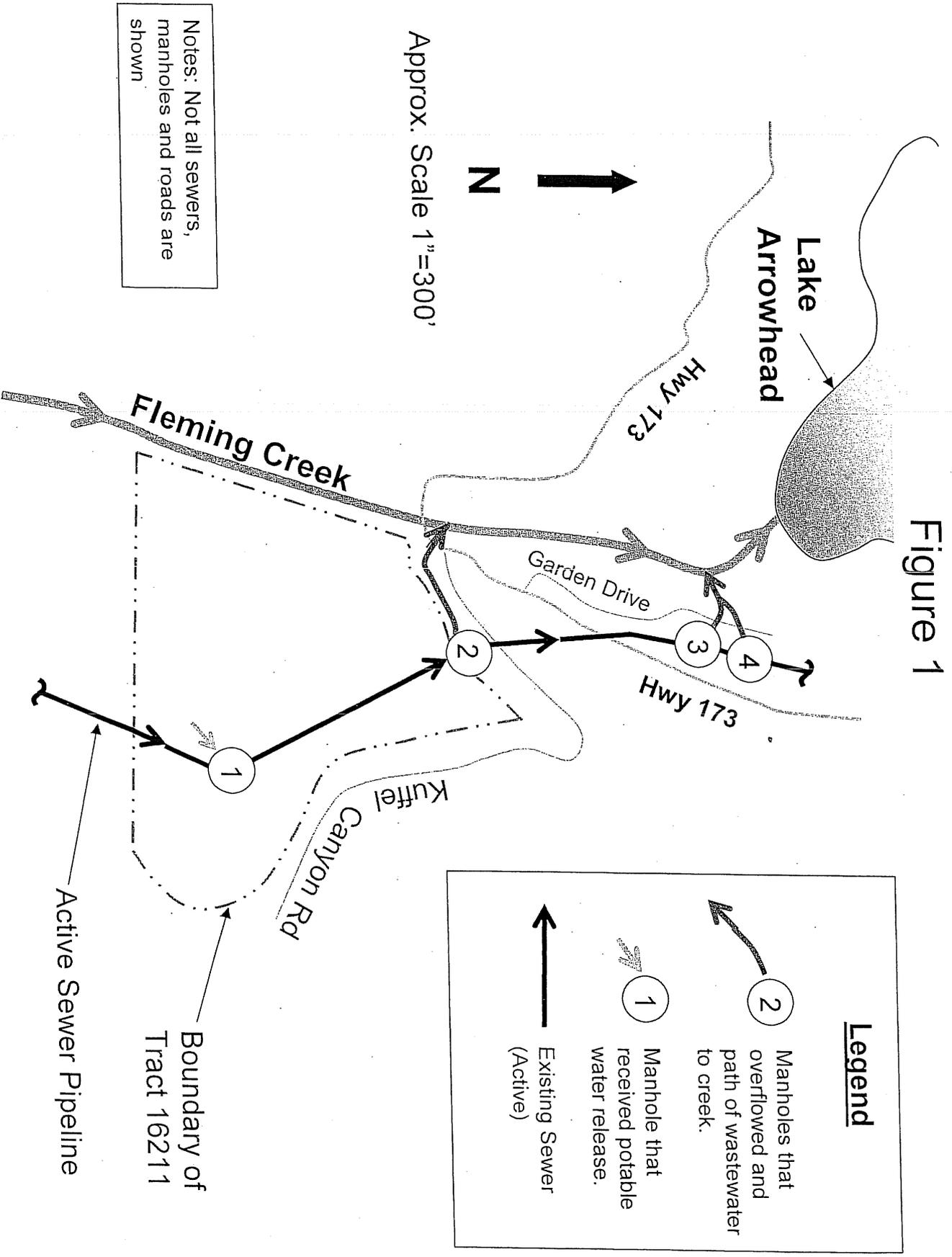
California Regional Water Quality Control Board – Lahontan Region
Atten: Robert S. Dodds, Assistant Executive Officer
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Please note that any waiver will not be effective until reasonable opportunity for public participation has been provided pursuant to federal National Pollutant Discharge Elimination System (NPDES) regulations (40 Code of Federal Regulation [C.F.R.] Parts 122, 123, and 124). The Water Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after a public comment period.

Ordered by: Robert S. Dodds Dated: January 5, 2007
ROBERT S. DODDS
ASSISTANT EXECUTIVE OFFICER

Attachment: Figure 1 (sketch of spill location)

Figure 1



Legend

- Manholes that overflowed and path of wastewater to creek. (Arrow with circled 2)
- Manhole that received potable water release. (Arrow with circled 1)
- Existing Sewer (Active) (Dashed line)

Notes: Not all sewers, manholes and roads are shown



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 Secretary for Environmental
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Arnold Schwarzenegger
 Governor

WAIVER
OF RIGHT TO A
PUBLIC HEARING

Roger O'Neal
 GTO Development
 100 Wilshire Blvd. Suite 650
 Santa Monica, CA 90401

Complaint No. R6V-2007-0001
 For
 Administrative Civil Liability
 \$ 35,000

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R6V-2007-0001 ISSUED TO GTO DEVELOPMENT FOR THE DISCHARGE OF UNTREATED WASTEWATER TO SURFACE WATERS WITHIN THE UPPER MOJAVE HYDROLOGIC AREA, LAKE ARROWHEAD, SAN BERNARDINO COUNTY

By signing below, GTO Development agrees that it waives its right to request a hearing before the California Regional Water Quality Control Board, Lahontan Region (Water Board) with regard to the violations alleged in the above-referenced Complaint and to remit payment for the civil liability imposed. (For payment, please make the check payable to the "California State Water Resources Control Board, Cleanup and Abatement Account.")

Please note that any waiver will not be effective until reasonable opportunity for public participation has been provided pursuant to federal National Pollutant Discharge Elimination System (NPDES) regulations (40 Code of Federal Regulations [C.F.R.] Parts 122, 123, and 124). In accordance with 40 C.F.R. part 123.27(d)(2)(iii), a 30-day public comment period will be required for a proposed settlement of administrative civil liability. The Water Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of 30 days.

GTO Development understands that even though this waiver of a right to a hearing has been signed, that the Water Board will schedule an agenda item to determine if it will accept the settlement. This agenda item will be limited to a consideration of whether the settlement is in the public interest. The Water Board may accept or reject the settlement or it may reject the Administrative Civil Liability Complaint. If the Water Board accepts the settlement or rejects the Complaint, no further hearing will be required. If the Water Board rejects the settlement, the Water Board will schedule a public hearing at a subsequent meeting. If the Water Board holds a public hearing, it will be noticed and all parties will have the opportunity to present evidence to the Water Board.

Signature

Title

Date

Print your name

Send this signed form and settlement check to:

California Regional Water Quality Control Board – Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150