



California Regional Water Quality Control Board Lahontan Region



Alan C. Lloyd, Ph.D.
Agency Secretary

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

Arnold Schwarzenegger
Governor

March 3, 2006

Mr. Mark D. Hudak, Esq. (VIA U.S. MAIL AND E-MAIL)
Carr McClellan Ingersoll Thompson & Horn
216 Park Road
Burlingame, CA 94010

Mr. James R. Donahue, Esq. (VIA U.S. MAIL AND E-MAIL)
Caulfield Davies & Donahue
P.O. Box 277010
Sacramento, CA 95827-7010

Mr. Drew Briner, Esq. (VIA U.S. MAIL AND E-MAIL)
P O Box 1880
Tahoe City, CA 96145

Steven H. Blum, Esq. (VIA E-MAIL ONLY)
State Water Resources Control Board
Office of Chief Counsel
1001 I Street
Sacramento, CA 95812

Counsel:

ACL COMPLAINT NO. R6T-2005-0029

Enclosed is the Notice of Public Hearing concerning consideration of an administrative civil liability in the above referenced complaint. Please direct any questions on the Notice of Public Hearing to me at (530) 542-5412.

Sincerely,

Harold J. Singer
Executive Officer

Enclosure: Notice of Public Hearing

Mr. Hudak, Mr. Briner,
2006
Mr. Donahue and Mr. Blum

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March 3,

cc all with enclosure:

Amy Horne, Chair, California Regional Water Quality Control Board, Lahontan Region
(Via E-mail only)

Robert S. Dodds, Assistant Executive Officer, California Regional Water Quality Control
Board, Lahontan Region (Via E-mail only)

David Coupe, Staff Counsel, State Water Resources Control Board, Office of Chief
Counsel, State Water Resources Control Board (Via E-mail only)

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

2501 Lake Tahoe Boulevard, South Lake Tahoe, CA 96150

PUBLIC HEARING

Concerning

CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY

Concerning

**C. GEOFFREY AND CHRISTINE DAVIS, HANS AND MARGARET COFFENG,
AND PACIFIC BUILT, INC.**

Placer County

The Assistant Executive Officer of the California Regional Water Quality Control Board, Lahontan Region (hereafter Lahontan Water Board) issued a Complaint for Administrative Civil Liability in the amount of \$700,000 to C. Geoffrey and Christine Davis, Hans and Margaret Coffeng, and Pacific Built, Inc. The Administrative Civil Liability Complaint alleges that on July 19, 2005, Pacific Built, Inc., a contractor hired by Hans and Margaret Coffeng and C. Geoffrey and Christine Davis to construct a multiple use pier, punctured a 14-inch sewer force main while driving a pile for pier support. The Administrative Civil Liability Complaint also alleges that a minimum of 120,000 gallons of untreated wastewater was discharged into Lake Tahoe.

The parties named in the Complaint have not waived their right to a hearing. The Lahontan Water Board will be asked whether to issue an administrative civil liability to C. Geoffrey and Christine Davis, Hans and Margaret Coffeng, and/or Pacific Built, Inc. in the amount of \$700,000, some different amount, or to reject any proposed order. The Lahontan Water Board may consider assessing liability in different amounts for each party after considering the factors in Water Code section 13327, including ability to pay, the effect on the ability to continue business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, and economic benefit, if any.

IMPORTANT: WRITTEN SUBMISSIONS ARE DUE MARCH 20, 2006.
RESPONSES TO COMMENTS FROM WRITTEN SUBMISSIONS ARE DUE
MARCH 29, 2006.

TIME

A **formal** public hearing concerning this matter will be held during the Lahontan Water Board meeting, which is scheduled for:

DATE: April 12 and 13, 2006
TIME: 1:30 p.m.
PLACE: Truckee Donner Public Utility District
11570 Donner Pass Road
Truckee, CA 96160

An agenda announcement for this meeting will be available by March 27, 2006. This announcement will provide more specific information about date and time of this hearing. The announcement will be sent to all designated and interested parties and will be available at: <http://www.waterboards.ca.gov/lahontan>.

DESIGNATION OF PARTIES

Designated Parties are as follows:

- Lahontan Water Board Staff
- C. Geoffrey and Christine Davis & Hans and Margaret Coffeng
- Pacific Built, Inc.

Only designated parties will have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses; to impeach any witness; to rebut the evidence against him or her.

All other persons wishing to testify or provide comments are interested persons and are not designated parties. Such interested persons may request status as a designated party for purposes of this hearing by submitting such request in writing to the Lahontan Water Board, attention Harold Singer, and the three designated parties no later than 5:00 p.m. on **March 10, 2006**. This request should include arguments as to why you are seeking “designated party” status. Objections to requests for designated party status must be submitted in writing to the Lahontan Water Board, attention Harold Singer, and the three designated parties no later than 5:00 p.m. on **March 15, 2006**. The Lahontan Water Board Chair (Chair) will make every effort to rule on these requests and specify appropriate time limits by March 17, 2006.

Interested Persons may make oral comments at the hearing. Each person’s time for oral comments will be limited to **five (5) minutes**. Comments shall be confined to the subject of the hearing and only to matters within the Lahontan Water Board’s jurisdiction.

CONDUCT OF HEARING

The procedures governing Lahontan Water Board meetings may be found in California Code of Regulations, title 23, section 647 et seq. Hearings before the Lahontan Water Board are not conducted pursuant to Government Code section 11500 et seq. The procedures may be obtained by accessing http://www.waterboards.ca.gov/water_laws/.

Information on meeting and hearing procedures is also available by contacting Ms. Laurie Applegate at (530) 542-5414.

All designated parties and interested persons may speak at the Lahontan Water Board meeting, and are expected to orally summarize their written submittals.

Each of the three designated parties will have **60 minutes** to summarize direct and rebuttal testimony and other evidence submitted in advance and to cross-examine other Party's witnesses. Each designated party may allocate their allotted minutes as they choose, as long as they do not exceed the total allocation. An additional **five (5) minutes** will be provided for each designated party for a closing statement.

Any witness who has submitted written testimony shall be present at the hearing to affirm their testimony under oath. (Cal. Code Regs., tit. 23, § 648.4, subd. (d).) If a person who has submitted testimony is not present, the Chair may refuse to admit the proposed testimony into evidence, and shall refuse to do so where there is a showing of prejudice to any party or the Lahontan Water Board, unless compliance would create a severe hardship or the Chair waives this requirement. A request to exclude direct testimony pursuant to this paragraph must be submitted to the Lahontan Water Board by 5:00 p.m. on **March 29, 2006**, if the direct testimony states that the witness will not be present. The Chair may also continue the hearing for the purpose of conducting cross-examination or Board questioning of the absent witness, accept the submission as hearsay evidence rather than witness testimony pursuant to Government Code section 11513, or waive the requirements of Government Code section 11513 pursuant to California Code of Regulations, title 23, section 648. Government Code section 11513 provides that hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but over timely objection shall not be sufficient in itself to support a finding. A hearsay objection is timely if made before the close of the hearing.

There may be one or more breaks at the discretion of the Chair.

SUBMISSION OF WRITTEN MATERIALS

Designated parties must submit (see next section for instructions) to the Lahontan Water Board and to all other designated parties, written copies of all technical reports, testimony, and other evidentiary material concerning this issue by **5:00 p.m. on March 20, 2006**. This written material will be made available to the Lahontan Water Board members and all interested persons.

Designated parties may also submit any technical reports, testimony, and other evidentiary material in response to any technical reports, testimony, and other evidentiary material that were initially submitted on March 20, 2006. The deadline to submit any responses to comments is **5:00 p.m. on March 29, 2006**. This submittal must be sent to the Lahontan Water Board and all designated parties. This deadline does not preclude the ability to present rebuttal testimony at the hearing. (Cal. Code Regs., tit. 23, § 648.4, subd. (f).) However, it is the policy of the State and Regional Boards to discourage the

introduction of surprise testimony and exhibits. (Cal. Code Regs., tit. 23, § 648.4, subd. (a).)

Written material received from the designated parties after the March 20, 2006 or March 29, 2006 deadlines will not be accepted, except at the discretion of the Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would prejudice any designated party. The Chair may choose to modify this rule upon a showing of severe hardship. (Cal. Code Regs., tit. 23, §§ 648.1 & 648.4.) Any person seeking to submit late evidence must justify why the evidence could not have been submitted earlier.

All designated parties intending to present witnesses at the hearing must submit written statements to the Lahontan Water Board, with a copy to all designated parties, by **5:00 p.m. on March 20, 2006**. The statements should provide the name of each witness whom the party intends to call at the hearing, their qualifications (if they will appear as an expert), and the subject of their intended testimony. (Cal. Code Regs., tit. 23, § 648.4, subd. (b).) Testimony at the above-scheduled hearing may summarize or explain timely submitted or late-accepted evidence, but shall not add new evidence.

INSTRUCTIONS FOR SUBMITTING DOCUMENTS

Copies of all written submissions, including evidence, testimony, requests for designated party status, and procedural objections or motions, must be sent to:

For the Lahontan Water Board:

Originals of all documents to:

Harold J. Singer
Executive Officer
Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

And **one** copy to:

David P. Coupe, Esq.
Staff Counsel
State Water Resources Control Board
Office of Chief Counsel
1001 I Street
Sacramento, CA 95812

For Lahontan Water Board Staff:

Robert S. Dodds

Assistant Executive Officer
Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

And **one** copy to:

Steven H. Blum, Esq.
Senior Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street
Sacramento, CA 95812

For C. Geoffrey and Christine Davis, Hans and Margaret Coffeng:

Mark D. Hudak, Esq.
Carr McClellan Ingersoll Thompson & Horn
216 Park Road
Burlingame, CA 94010

And

Mr. James R. Donahue, Esq.
Caulfield Davies & Donahue
P.O. Box 277010
Sacramento, CA 95827-7010

For Pacific Built, Inc.:

Drew Briner, Esq.
P.O. Box 1880
Tahoe City, CA 96145

You must submit hard copies of all testimony, evidence, comments, or other written documents that you want to provide to the Lahontan Water Board members. In addition to the above recipients, submit **twelve (12) additional paper copies** of all testimony, evidence, or other written documents (i.e., everything other than any procedural objections, motions or requests for designated party status) to the Lahontan Water Board, attention Harold Singer.

Anyone having questions on the Administrative Civil Liability Complaint or other related documents should contact Robert S. Dodds at (530) 542-5410. Interested parties may download the Administrative Civil Liability Complaint and related documents from the Lahontan Water Board's website at www.waterboards.ca.gov/lahontan. If you do not have Internet access or would like to receive a hardcopy of these documents, these

documents may be inspected and copied at the Lahontan Water Board's office, Monday through Friday, excluding holidays, between 8:00 a.m. and 5:00 p.m. by appointment or you may request a copy to be mailed to you by telephoning Laurie Applegate at (530) 542-5414.

COMMENTS BY INTERESTED PERSONS (NON-DESIGNATED PARTIES)

All interested persons who have not been designated as parties may present comments to the Lahontan Water Board.

A comment is a non-evidentiary statement. It may include (1) the policy views and position of the speaker; (2) non-expert analysis of evidence that already has been presented; or (3) argument concerning the contents of the Administrative Civil liability complaint. Persons who wish to make comments may do so, subject to the following provisions:

Interested persons are encouraged to submit written comments by 5:00 p.m. on **March 27, 2006**. Written comments must be addressed to the Lahontan Water Board at the address above, attention Harold Singer. Unless there is a showing of good cause for late submission satisfactory to the Chair, written comments received after the due date will not be considered by the Lahontan Water Board and will not be included in the Administrative Record.

As noted above, an interested person may make oral comments at the hearing. Each person's time for oral comments will be limited to **five (5) minutes**. Comments shall be confined to the subject of the hearing and only to matters within the Lahontan Water Board's jurisdiction.

At the discretion of the Chair, questions may be addressed to interested persons for the purpose of clarifying their statements. However, such persons shall not be subject to cross-examination and may not cross-examine hearing witnesses or interested parties.

HEARING FACILITIES

The hearing facilities will be accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact Ms. Laurie Applegate at (530) 542-5414 at least five (5) working days prior to the hearing. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Please bring the above information to the attention of anyone you know who would be interested in this matter.



HAROLD J. SINGER
Executive Officer