



California Regional Water Quality Control Board

Lahontan Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.mscomm.com/~rwqcb6>
2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
Phone (530) 542-5400 • FAX (530) 544-2271

Gray Davis
Governor

MINUTES

MAY 10-11, 2001

Regular Meeting

Lahontan Regional Water Quality Control Board
Forest Inn Suites
Sierra Meeting Room
South Lake Tahoe

Beatrice Cooley, Chairperson, called the meeting to order at 7:30 p.m. on May 10, 2001.

BOARD MEMBERS PRESENT

John Brissenden, Hope Valley
Beatrice Cooley, Ph.D., Bishop
Eugene B. Nebeker, Ph.D., Lancaster
Jack Clarke, Apple Valley
Eric Sandel, P.E., Truckee

BOARD MEMBERS ABSENT

None

LEGAL COUNSEL

Steven H. Blum, State Water Resources Control Board

STAFF PRESENT

Harold J. Singer, Executive Officer
Robert S. Dodds, Assistant Executive Officer
Hisam Baqai, Supervising WRCE
Cindi Mitton, Chief, Mono/Owens Watersheds
Alan Miller, Chief, Carson/Walker Watersheds
Jill Wilson, Environmental Specialist III
Jerrold T. Peacock, AWRCE
Tammy Lindquist, Assoc. Engineering Geologist
James Brathovde, Assoc. Engineering Geologist
Robert Erlich, Environmental Specialist III
Lisa Dernbach, Sr. Specialist Eng. Geologist
Richard Booth, Assoc. Engineering Geologist
Robin Mahoney, WRCE
Pamela Walker, Administrative Officer

Scott Ferguson, Chief, Northern Watersheds
Lauri Kemper, Chief, Lake Tahoe Watershed
Chuck Curtis, Chief, TMDL Unit
Doug Smith, Chief, USTs/Dod Unit
George Cella, Assoc. Engineering Geologist
Martin Goldberg, Environmental Specialist II
Tom Gavigan, Assoc. Engineering Geologist
Ericka Lovejoy, Environmental Specialist III
Jeremy Sokulsky, WRCE
Brian Grey, Environmentalist Specialist I
Laurie Scribe, Environmental Specialist I
Eric Taxer, WRCE
Cadie MacDonald, Assoc. Eng. Geologist
Susan-Marie Hagen, Executive Assistant

Abby O'Keefe, Student Assistant

Michelle Bovard, Student Assistant

ADDRESSING THE BOARD

Art Baggett, Chair, State Water Resources Control Board

Asad Amini, private citizen

Jeffery Scharff, attorney representing Tom Erickson, Tahoe Tom's

Duane Wallace, South Tahoe Public Utility District

Rick Hydrick, South Tahoe Public Utility District

G. David Robertson, attorney representing Squaw Valley Ski Corporation

Mike Livak, Squaw Valley Ski Corporation

Nancy Lundgren, representing Senator Rico Oller

Nancy R. Wendt, Squaw Valley Ski Corporation

Treva J. Hearne, attorney representing Edgar Stratton, Dependable Tow

Bob Tamietti, attorney representing Ken Osburn

Dennis Brown, Aquiva Company

1. PUBLIC FORUM

Mr. Jeffery Scharff, attorney representing Tom Erickson, addressed the Board's April action in which a resolution was adopted recommending sites to be included on the State Water Resources Control Board's (SWRCB) list for funding from the Emergency, Abandoned, and Recalcitrant (EAR) Account. An attachment to the EAR account designation included Mr. Erickson's Tahoe Tom's Gas Station located in South Lake Tahoe. Mr. Scharff objected to two statements in Exhibit A, which he stated were incorrect. He asked that this item be set on the next meeting agenda so that the Board could reconsider and rescind this action. Mr. Scharff was informed by Mr. Singer that his opportunity to object to having his client placed on the list was to appear before the State Water Resources Control Board before it adopted the current list.

Mr. Azad Amiri, operator of Swiss Mart Gas Station in South Lake Tahoe, addressed the Board and discussed the progress of remediation at his site. He asked for consideration of a settlement offer. The matter was later discussed in closed session.

2. MINUTES

The following minutes were approved: Regular Meeting of March 14-15, 2001 in Truckee.

Motion: Moved by Mr. Sandel, seconded by Mr. Clarke **and unanimously carried** to adopt the March minutes as proposed.

The following minutes were approved: Regular Meeting of April 11-12, 2001 in Lancaster.

Motion: Moved by Mr. Brissenden, seconded by Mr. Sandel **and unanimously carried** to adopt the April minutes as proposed.

3. **ADOPTION OF UNCONTESTED CALENDAR**

The following items remained on the Uncontested Calendar:

Item # 5, Bruns Gravel Quarry,

Item # 7, U.S. Army, Sierra Army Depot Wastewater Treatment and Disposal Facility

Item # 9, Resolution to Request the Use of Cleanup and Abatement Account Funds for a Slope Stability Project at Leviathan Mine

- **Motion:** Moved by Mr. Clarke, seconded by Mr. Sandel **and unanimously carried** to adopt the Uncontested Calendar as proposed.

4. **WORKSHOP ON APPROPRIATE MTBE CLEANUP LEVELS**

Douglas Smith gave the staff presentation addressing issues involved in determining the appropriate cleanup strategy for the MTBE-affected groundwater caused by the Beacon Gas Station located in Meyers.

Harold Singer asked the Board to give staff guidance in determining cleanup levels and strategies related to a release. Duane Wallace, Board Chair of South Tahoe Public Utilities District (STPUD), and Rick Hydrick, Manager of Water Operations, addressed the Board regarding the good progress made through the collaborative efforts of the staff and boards of both agencies. Many issues were discussed during the workshop: S.T.P.U.D.'s policy of not serving detectable amounts of MTBE in the drinking water, treatment at the point of use (well-head treatment) versus aquifer treatment, limited water supply problems, public perception of MTBE, and determining appropriate cleanup levels for an MTBE site.

Dennis Brown of Equiva Services, a company doing some cleanup in the Tahoe basin, addressed the Board with concerns about the process in determining appropriate cleanup levels for contaminated sites.

5. **NEW WASTE DISCHARGE REQUIREMENTS**

Squaw Valley Ski Corporation, Easy Street Trail Widening Project.

Scott Ferguson gave the staff presentation. The proposed Board Order prescribes waste discharge requirements (WDR's) for the Easy Street Trail Widening Project at Squaw Valley Ski area. The purpose of the project is to widen and smooth out the existing trail in an effort to lower the trail rating for beginning skiers. The new WDR's will regulate the potential discharges of stormwater runoff, products of erosion, and petroleum products from construction equipment. The WDR's contain success criteria regarding efforts to revegetate the cut slope.

Mr. Blum referred to a section of the Porter-Cologne Water Quality Control Act and how it relates to this project in regard to discharges and permitting. Staff responded to questions from the Board.

Mr. Brissenden made a “friendly amendment” to request a reduction in the anticipated timeframe for successful results in vegetative coverage and soil stabilization from revegetation efforts with native plant species. Mr. Ferguson agreed that his point was well taken. However, on the soils and slopes in question, staff believed that it would require five to fifteen years for slower growing native shrubs and plants to develop extensive root systems and become established. Mr. Brissenden later withdrew his “friendly amendment. He asked that it be noted that he disagreed with the extended revegetation timeframe for this project.

Mike Livak, Planning Director for Squaw Valley Ski Corporation, said that he, too, would like to see the site reach the revegetation target sooner, but efforts are hampered by a short growing season and the time required for native shrubs to become established. Mr. Singer summarized the discussion and suggested the Board adopt the proposed Board Order for the new waste discharge requirements, along with considering the development of a shorter revegetation timeline after staff had consulted with native plant experts.

Mr. Sandel suggested a Board workshop to address successful revegetation and restoration techniques and projects in the Tahoe Basin. Mr. Singer suggested that such a workshop be calendared for the Board’s October meeting in South Lake Tahoe.

Motion: Moved by Mr. Sandel, seconded by Mr. Clarke to adopt the new waste discharge requirements as proposed for the Easy Street Trail project.

Vote: Agreed: Cooley, Clarke, Nebeker, Sandel. Opposed: Brissenden.

The evening meeting adjourned at 11:00 p.m.

Regular Meeting, Continued
8:30 a.m., May 11, 2001

Dr. Cooley called the meeting to order at 8:35 a.m.. Board members present included: John Brissenden; Eric Sandel; Eugene Nebeker, Ph.D, Jack Clarke; and Beatrice Cooley, Ph.D.

Mr. Dodds, Acting Executive Officer, assisted the Board in the absence of Mr. Singer.

ENFORCEMENT ACTION

8. ***Public Hearing – Consideration of an Administrative Civil Liability Order for Alpine County, Department of Public Works, for Violation of Waste Discharge Prohibitions prescribed in the Water Quality Control Plan for the Lahontan Region, and Violation of Waste Discharge Requirement Waiver Conditions; Markleeville Creek Bank Stabilization Project.***

Dr. Cooley announced that Item # 8 had been removed from the agenda as a settlement had been reached.

1. **PUBLIC FORUM**

No one addressed the Board during the public forum.

ENFORCEMENT ACTION (Continued)

13. ***Public Hearing – Referral to the Office of the Attorney General; Squaw Valley Ski Corporation, Squaw Valley Development Company, Squaw Valley Preserve, Alex Cushing, Nancy Wendt, Hans Burkhart, corporate officers and managers, and any and all other appropriate parties, for any and all relief that the Attorney General deems appropriate and authorized by law.***

Chair Cooley opened the public hearing and administered the oath.

Mr. Blum addressed the Board regarding the necessary level of evidence that is appropriate for a referral to the Office of Attorney General.

Scott Ferguson and Martin Goldberg gave the staff presentation that included a video showing violations and water quality impacts throughout the Squaw Valley Ski Area (SVSA). Staff explained that the proposed action is in response to a history of violations that Board staff believe have contributed and continue to contribute to the degradation of water quality within Squaw Creek and its tributaries. The Regional Board staff have expended significant resources attempting to bring the Squaw Valley Ski Area facility into compliance with the Water Quality Control Plan for the Lahontan Region (Basin Plan), waste discharge requirements, and other orders of the Regional Board. These efforts have not been successful. Regional Board staff believe that they have exhausted their regulatory and enforcement options, short of referring this matter to the Office of the Attorney General. The Attorney General will determine if the facts support filing a petition in the Superior Court for an injunction to obtain compliance, and impose and recover civil liability in this matter.

Staff recommended adoption of the resolution as proposed. Staff then responded to questions from the Board concerning projects of SVSA, whether a wetlands inventory is complete, and what the results of water sampling revealed in terms of minerals and chemicals present in the discharge. David Robertson, senior partner of the law firm representing Squaw Valley Ski Area and Board member of the SVSA board of directors, addressed the Regional Board and presented the

following as exhibits: three small, lidded jars containing water samples from Squaw Creek and tributaries showing different levels of turbidity expressed in NTU's; USGS historical precipitation charts of Blackwood and Ward Creek Canyons in the Tahoe Basin; poster maps of Squaw Valley, and ten very large packets of information on SVSA and their projects.

Mr. Robertson stated that he had called Mr. Singer once in May of 2000, asking him to meet with him if problems arose so he could help solve them. No meeting took place. He stated that only one Administrative Civil Liability (ACL) order to date had been issued to SVSA. Water samples are being taken every Wednesday. Mr. Robertson noted, for the record, that SVSA had received the staff report and proposed resolution for this hearing nine days before the Board meeting and that it provided them with insufficient time to adequately prepare a response.

Mr. Blum responded by asking Mr. Robertson to note the list of all types of violations of Board Orders and regulatory violations, beyond the single ACL mentioned by SVSA.

Nancy Lungren, representing Senator Rico Oller, read a letter from the Senator into the record.

Mr. Livak, Planning Director for SVSA, asked that the Board not adopt the referral to the Attorney General's office. He cited discrepancies in the staff report, and questioned whether or not "all remedies available to staff had been exhausted".

Nancy Wendt, President of Squaw Valley Ski Corporation, pointed out that most of the mountainland was not acquired until 1974. The parking lot area was acquired in 1990. Some of the environmental problems are related to the parking area, soil erosion sites, and underground storage tanks that have been inherited from previous owners. Almost \$3 million has been spent to date on remediation, especially for replacement of underground storage tanks. She stated that SVSA has tried for a long time to improve water quality on the north and south forks of Squaw Creek. Since 1991, SVSV has had a revegetation crew working on the mountain every summer. Squaw Valley Ski Corporation has spent \$7 million on environmental projects and mitigation over the last ten years at the ski resort. This, plus the \$3 million for underground tanks, represents an environmental investment of over \$10 million. SVSA asked the Board to take this into consideration and give them the chance to work with Lahontan staff to narrow the issues before making the decision to refer this to the Office of the Attorney General. She concluded by saying that there seems to be a wide disparity in some of the facts presented.

Mr. Blum suggested the following course of action if the Board intended to pursue a referral to the Attorney General's Office: start the referral process today; instruct the Regional Board staff to meet with the staff of Squaw Valley Ski Corporation and the Deputy Attorney(s) General who will be working on the case to see if there are grounds for resolution of all of the issues. At that point, Lahontan Board staff, Mr. Singer and the Attorney General will decide if filing the lawsuit is appropriate.

Motion: Moved by Mr. Brissenden, seconded by Mr. Sandel **and unanimously carried** to adopt the resolution as proposed and make this referral to the Attorney General.

Amendment to the Motion: An amendment was offered by Dr. Cooley that the respective staff's of the Regional Board, Squaw Valley Ski Corporation and the Attorney General's Office meet and attempt to resolve these issues before any determination is made to file a lawsuit.

Voice Vote: Unanimous agreement.

A short three minute break was called and then the meeting resumed

ENFORCEMENT ACTION (continued)

14. *Public Hearing – Consideration of an Administrative Civil Liability Order for Edgar Stratton and Kenneth Osburn for Violation of Section 13267 of the California Water Code.*

Dr. Cooley stated that this last item remaining on the agenda, had successfully reached a settlement and was removed from the agenda. Acting Executive Officer, Robert Dodds, explained the settlement agreement to the Board.

OTHER BUSINESS

10. *Executive Officer's Report*

Mr. Dodds highlighted several items from the narrative of Mr. Singer's report.

Investigation of Pesticides Detected in Ground Water

The Environmental Protection Agency has issued an interim permit until a state permit has been established regarding pesticides applied to waters of the state. (Refer to the April 2001 Executive Officer's Report). Mr. Dodds discussed the CleanUp and Abatement Order signed by Mr. Singer to address the applications of aquatic pesticides in the region.

State to Develop Health Goal, Seeks Scientific Review of Hexavalent Chromium in Drinking Water

Mr. Dodds mentioned the Regional Board staff's plan to sample private wells in the Hinkley area.

Los Angeles County Sanitation District (LACSD) No. 14 , Lancaster Water Reclamation Plant-proposed WDR's and Cease and Desist Order.

The Regional Board may send this item to the State Board due to lack of a quorum. Mr. Sandel recommended a Board workshop on this Item. Mr. Dodds will discuss this with Mr. Singer.

Use of Alum for Stormwater Treatment

Alan Miller, Regional Board staff, responded to questions from Board members.

19. Reports by Chairman and Board Members

Dr. Cooley asked the Board members for any reports.

Mr. Sandel mentioned that he had received a notice for a TMDL Consensus Simulation Workshop Santa Barbara on June 7 and 8. Attendance is reimbursed by the State Water Board. Mr. Singer earlier suggested that interested Board members contact him about attending.

Dr. Cooley reported on the Water Quality Coordinating Committee meeting in Pasadena in April. Dr. Cooley, Mr. Clarke and Mr. Singer represented the Regional Board. She stated that it went well and was an interesting meeting.

12. CLOSED SESSION

The Board members met in closed session on May 11, 2001 from 1:05 p.m. to 1:23 p.m. to discuss Items #12 (e) and (h). The Board reconvened in open session at 1:23 p.m.

There being no further business to come before the Board, the May 11, 2001 meeting adjourned at 1:25 p.m.

Prepared by: _____ Adopted: June 13, 2001
Susan-Marie Hagen, Executive Assistant