



# California Regional Water Quality Control Board Lahontan Region



**Linda S. Adams**  
Secretary of  
Environmental Protection

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**Arnold Schwarzenegger**  
Governor

## MINUTES February 14-15, 2007

### Regular Meeting

Lake Tahoe Community College  
Library Board Room  
One College Drive  
South Lake Tahoe, CA 96150

Dr. Horne, Chair, called the meeting to order at 1:15 p.m. on February 14, 2007.

#### Board Members Present

John Brissenden, Hope Valley  
Jim Chapman, Susanville (arrived 1:31 Feb. 14)  
Jack Clarke, Apple Valley  
Keith Dyas, Rosamond  
Amy Horne, Ph.D., Truckee  
Eric Sandel, Truckee (present Feb. 15)  
Susan J. Van Dam, Barstow

#### Board Members Absent

Eric Sandel (absent Feb. 14)

#### State Board Liaison

Art Baggett, Jr., State Water Resources Control Board

#### Legal Counsel

David Coupe, State Water Resources Control Board  
Lori Okun, State Water Resources Control Board

#### Staff Present

Harold Singer, Executive Officer  
Bob Dodds, Assistant Executive Officer  
Chuck Curtis, Supervising WRCE  
Lauri Kemper, Supervising WRCE  
Mike Plaziak, Senior Eng. Geologist  
Laurie Applegate, Executive Assistant  
Richard Booth, Senior Eng. Geologist  
George Cella, Eng. Geologist  
Doug Cushman, WRCE

Scott Ferguson, Senior WRCE  
Brian Grey, Eng. Geologist  
Anne Holden, Eng. Geologist  
Bob Larsen, Environmental Scientist  
Erika Lovejoy, Environmental Scientist  
Laurent Meillier, Eng. Geologist  
Alan Miller, Senior WRCE  
Eric Shay, Staff Services Analyst  
Bruce Warden, Environmental Scientist

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**Addressing the Board**

Laurel Ames

Art Baggett, Member, State Water Resources Control Board

Clay Brandow, CDF

Michael Donahoe, Sierra Club

Janel Gifford, El Dorado County Department of Transportation

Martin Goldberg, Fire Department

Douglas Hanford

Mary B. Huggins, CDF

Don Jardine, Alpine County

Carol Kennedy, USFS Tahoe National Forest

Chris Knopp, USFS

Alfred Knotts, El Dorado County Department of Transportation

Steve Kooyman, El Dorado County Department of Transportation

Ray Lacey, California Tahoe Conservancy

Dave Marlow, USFS, Lake Tahoe Basin Management Unit

Chad Mellison, U.S. Fish and Wildlife Service

Gary Midkiff, Homewood Mountain Resort

Susan Norman, USFS, Lake Tahoe Basin Management Unit

Benjamin Pignatelli, League to Save Lake Tahoe

John Pillsbury, Tahoe Area Coordinating Council for the Disabled

Tyrone Polastri, Lake Tahoe Bicycle Coalition

Steve Rogers, North Tahoe Public Utility District

Laurie Sada, U.S. Fish and Wildlife Service

Mark Shadowens, Lake Tahoe Regional Fire Chiefs

John Singlaub, Tahoe Regional Planning Agency

Robert Slater, El Dorado County Department of Transportation

Craig Thomas, Sierra Nevada Forest Protection Campaign

Garrett Villaneva, USFS, Lake Tahoe Basin Management Unit

**1. PUBLIC FORUM**

No one addressed the Board during the Public Forum.

**2. MINUTES****Minutes of the Regular Meeting of November 8, 2006 in Palmdale and November 9, 2006 in Adelanto**

- **Motion:** Moved by Mr. Clarke, seconded by Mr. Brissenden and **unanimously carried** to adopt the minutes as written. Note: Mr. Chapman was not present for the vote.

**PROPOSED WAIVER OF WASTE DISCHARGE REQUIREMENTS****3. *Public Hearing* – Proposed Renewal of Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest and Vegetation Management Activities**

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Dr. Horne opened the public hearing.

Note: Jim Chapman arrived at 1:31 p.m.

Erika Lovejoy and Doug Cushman gave the staff presentation and answered questions from the Board. Ms. Lovejoy discussed comments received from Philip E. Nemir, Forestry & Appraisal Services and Craig Thomas, Director, Sierra Nevada Forest Protection Campaign. Ms. Lovejoy recommended the Board adopt the Resolution renewing the timber waiver with the late revision sheet provided by staff.

Addressing the Board: Chris Knopp, USFS (handout); Susan Norman, USFS, Lake Tahoe Basin Management Unit (LTBMU); Carol Kennedy, USFS, Tahoe National Forest; Clay Brandow, CDF; Mary Huggins, CDF; Mark Shadowens, Lake Tahoe Regional Fire Chiefs; Martin Goldberg, Fire Department; Craig Thomas, Sierra Nevada Forest Protection Campaign (handouts); Michael Donahoe, Sierra Club; Laurel Ames; Benjamin Pignatelli, League to Save Lake Tahoe; and Dave Marlow, USFS, LTBMU.

Dr. Horne closed the public hearing.

Board members discussed the comments made during the public hearing.

Board members agreed to: 1) add language to Attachment A of the Resolution requiring that the USFS allow the public and other interested parties reasonable opportunity to comment on and/or challenge individual timber harvest proposals, 2) add language to Attachment A of the Resolution stating that the Water Board supports the USFS Best Management Practices Evaluation Program (BMPEP) for its intended purpose and considers that it satisfies portions of the Monitoring and Reporting Program, 3) modify the Monitoring and Reporting Program to allow more flexibility for implementation monitoring, and 4) add a check box to the front page of the Category 5 application for applicants to check if watersheds or subwatersheds are at 80% of threshold of concern.

Mr. Chapman discussed the conflicting public policies between the fire threat and concern for protecting water quality. He noted funding available for hazardous fuel reduction and suggested the Board consider applying for fuel reduction dollars to increase staff to be used to refine the waiver process, best management practices and incorporate needed monitoring.

Dr. Horne noted the waiver was difficult to understand. She suggested the Board adopt the waiver for one year and use the time to work with stakeholders, edit the document to make it understandable and bring it back for the Board to review at the end of the year.



Board members discussed Dr. Horne's suggestion. It was the consensus of the Board that the document could be improved to make it easier to understand. Mr. Clarke voiced concern that adopting the document for a period of one year would put a burden on staff and noted staff could bring the document to the Board for review at any time. Mr. Singer asked the Board to adopt the waiver as a five-year waiver with direction to bring a more user-friendly document back to the Board. He noted staff would attempt to do that in about a year.

- **Motion:** Moved by Mr. Dyas and seconded by Mr. Clarke to adopt the conditional waiver for five years, incorporating the modifications discussed, and directing staff to bring the waiver back to the Board in one year for informal review.

Ms. Kemper reminded the Board that the item included a late revision sheet. Mr. Dyas and Mr. Clarke agreed to include the late revision sheet in the motion.

Board members discussed the motion. Mr. Clarke suggested the Board adopt the waiver for five years with direction to staff to bring it back for Board review when it is a user-friendly document.

Dr. Horne reopened the public hearing.

Mark Shadowens, President of the Lake Tahoe Regional Fire Chiefs, supported Dr. Horne's recommendation to adopt the waiver and revisit the document in one year.

Mr. Coupe discussed options available to the Board. He discouraged an informal review of the waiver.

Mr. Chapman recommended the Board take no action on the waiver and allow the existing waiver to expire on January 1, 2008 using the 10-1/2 months to implement a formal review process and work with stakeholders to bridge remaining gaps. Dr. Horne noted that allowing the waiver to expire would not address the need for monitoring requirements or regulations of noncommercial fuel reduction projects.

Lauri Kemper noted staff will be working on developing a user-friendly application and a database to track monitoring reports. She noted a one-year review period would affect staff's ability to have a field presence and suggested two years would be a more reasonable review period from staff's perspective. Dr. Horne noted her intent was to reduce staff's workload. She voiced concern that the document was not an effective communication tool as written.

Dr. Horne closed the public hearing.

Mr. Dyas amended his motion.



- **Amended Motion:** Moved by Mr. Dyas and seconded by Mr. Clarke to adopt the conditional waiver for five years, incorporating the modifications discussed, including the reference to public participation with NEPA and the late revisions.

Mr. Singer suggested that the following comment be added to Attachment A of the Resolution on Page 15, 2. c., the third sentence (added language underlined for clarity): The Water Board supports the USFS Best Management Practices Evaluation Program (BMPEP) for its intended purpose and considers that it satisfies portions of the MRP.

Dr. Horne suggested a change to the date on page 4, bullet 2 of the Monitoring and Reporting Program (new date underlined for clarity): A pre-winter implementation inspection shall be completed after August 15 but not later than November 15 of each year...

Mr. Dyas and Mr. Clarke agreed to add the changes to the motion.

Mr. Singer noted his intent to come back to the Board with a process to inform the public of changes to monitoring and reporting programs.

Dr. Horne noted she could not agree to adopt the waiver for five years and suggested the Board review the waiver in two years. Board members discussed Dr. Horne's suggestion.

Mr. Brissenden suggested the Board adopt the waiver for five years allowing staff to interpret the Board's policy, receive input from stakeholders and work with the document.

Mr. Clarke called for the question.

Voting yes: Mr. Brissenden, Mr. Clarke, Mr. Dyas and Ms. Van Dam

Voting no: Dr. Horne, Mr. Chapman

Absent: Mr. Sandel

**Motion carried 4-2.**

The Board recessed for dinner at 4:55 p.m.



**Regular Meeting, Continued**  
**7:00 p.m., February 14, 2007**

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

Board members present: John Brissenden, Jim Chapman, Jack Clarke, Keith Dyas, Amy Horne, Susan J. Van Dam. Board member absent: Eric Sandel.

Art Baggett, Member, State Water Board and liaison to the Lahontan Water Board, discussed issues being considered by the State Water Board.

**6. PUBLIC FORUM**

No one addressed the Board during the Public Forum.

**OTHER BUSINESS**

**7. Lake Tahoe Trails Workshop – A workshop will be held to inform the Board about the water quality issues surrounding existing and proposed hiking and biking trails within the Lake Tahoe Basin. Presenters will include the U.S. Forest Service and the California Tahoe Conservancy**

George Cella gave the staff presentation. Mr. Cella and Ms. Kemper answered questions from the Board.

Addressing the Board: Garrett Villanueva, Trails Program Coordinator, USFS, Lake Tahoe Basin Management Unit; Ray Lacey, Deputy Director, California Tahoe Conservancy; John Singlaub, Tahoe Regional Planning Agency; Tyrone Polastri, Lake Tahoe Bicycle Coalition; Steve Rogers, North Tahoe Public Utility District; John Pillsbury, Tahoe Area Coordinating Council for the Disabled; and Laurel Ames.

Mr. Singer and Board members discussed the Basin Plan findings for public recreation and public service facility projects related to hiking and biking trails in the Lake Tahoe Basin.

**STATUS REPORT**

**8. Status Report on the United States Fish and Wildlife Service (USFWS) Proposed Paiute Cutthroat Trout Recovery Project on Silver King Creek, Alpine County**

Mr. Coupe noted a conflict of interest. Lori Okun served as the Board's legal counsel for this item.

Bruce Warden gave the staff presentation.



Addressing the Board: Laurie Sada and Chad Mellison, U.S. Fish and Wildlife Service; Don Jardine, Alpine County; and Laurel Ames.

Mr. Singer noted the Department of Fish and Game is no longer involved with the project. The Lahontan Water Board is lead agency under CEQA and will be working with the U.S. Fish and Wildlife Service to prepare a joint EIS/EIR document. He noted the Water Board will have the discretion to approve or not approve the project.

Dr. Horne recommended peer review of Dr. Mark Vinson's report when completed.

### **OTHER BUSINESS**

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

Mr. Singer discussed items from the January and February 2007 Executive Officer's written reports.

Mr. Singer noted staff is preparing a workplan to address issues related to dry wells in the Victor Valley and Antelope Valley. Staff will begin working on the issue this fiscal year.

Mr. Singer noted the PG&E permit adopted by the Board in November 2006 has been petitioned to the State Water Board by Mr. Robert Conaway. Mr. Coupe noted the State Water Board has asked staff for the administrative record and for a response to the petition.

Water Board staff will hold a public meeting at the Hinkley Elementary School on March 6, 2007 to describe groundwater chromium cleanup efforts at PG&E's Hinkley Compressor Station. Representatives from PG&E will be present to provide information regarding their activities. Mr. Singer described outreach efforts to inform the community of the meeting.

Note: The meeting recessed at 10:45 p.m. on February 14, 2007.

### **Regular Meeting, Continued** **8:30 a.m., February 15, 2007**

Dr. Horne, Chair, called the meeting to order at 8:30 a.m. on February 15, 2007.

Board members present: John Brissenden, Jim Chapman, Jack Clarke, Keith Dyas, Amy Horne, Eric Sandel and Susan Van Dam. Board members absent: None.



**ENFORCEMENT ACTION**

9. **Public Hearing – Consideration of Rescission of Cease and Desist Order No. R6T-2006-0034 for Homewood Mountain Resort Discharge and Threatened Discharge of Waste in Violation of Waste Discharge Requirements Contained in Board Order No. 6-95-86A2**

Dr. Horne opened the public hearing and administered the oath.

Robert Erlich gave the staff presentation and recommended the Board adopt the order rescinding the cease and desist order.

Addressing the Board: Gary Midkiff, Homewood Mountain Resort.

- **Motion:** Moved by Mr. Brissenden and seconded by Mr. Sandel to adopt the order as proposed. Following a roll call vote, the **motion carried 7-0.**

**OTHER BUSINESS**

11. **Request to the State Water Resources Control Board for Funds for Leviathan Mine**

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

**ENFORCEMENT ACTION**

10. **Public Hearing – Consideration of an Administrative Civil Liability Order for El Dorado County Department of Transportation for Violation of Waste Discharge Requirements/National Pollutant Discharge Elimination System (NPDES) Permit, for the Unauthorized Discharge of Sediment-Laden Water to Angora Creek on August 24 and 31, 2006, Angora Creek Stream Environment Zone Restoration Project, South Lake Tahoe, El Dorado County**

Dr. Horne opened the public hearing and administered the oath. Dr. Horne introduced the teams/designated parties:

- Water Board Advisory Team: Lori Okun, Legal Counsel; Harold Singer, Executive Officer.
- Water Board Prosecution Team (Designated Party): David Coupe, Legal Counsel; Robert Dodds, Assistant Executive Officer; Scott Ferguson, Senior Water Resource Control Engineer.
- El Dorado County Department of Transportation (Designated Party): Bob Slater, Deputy Director, El Dorado County Department of Transportation.

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**Testimony:**

Scott Ferguson, Senior Water Resource Control Engineer, entered the following items into the record: The Water Board file related to the Angora Creek stream environment zone restoration project, materials included in the meeting agenda package for item 10, Water Board staff's presentation for item 10, the Water Quality Control Plan for the Lahontan Region as amended, and the Notice of Public Hearing. Mr. Ferguson recommended the Board adopt the Administrative Civil Liability (ACL) Order as proposed.

Bob Slater, Deputy Director, El Dorado County Department of Transportation, introduced Steve Kooyman, Supervising Engineer, Alfred Knotts, Principal Planner, Janel Gifford and El Dorado County Supervisor Norma Santiago. Mr. Slater asked the Board to reject the proposed ACL. Mr. Slater answered questions from Ms. Okun, Mr. Singer and members of the Board. Mr. Kooyman and Mr. Knotts presented testimony. Mr. Knotts and Janel Gifford responded to questions from Mr. Singer.

**Cross Examination:**

Mr. Coupe asked questions of Mr. Slater.

**Comments by Interested Persons:**

Douglas Hanford, contractor, addressed the Board.

**Rebuttal:**

Mr. Ferguson presented rebuttal on behalf of the Water Board Prosecution Team.

**Closing remarks:**

Mr. Slater presented closing remarks for El Dorado County Department of Transportation. Mr. Slater and Mr. Kooyman responded to questions from members of the Board and Mr. Singer.

Mr. Coupe presented closing remarks for the Water Board Prosecution Team.

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

**Board member discussion and motion:**

Mr. Dyas commented that staff's method for calculating the amount of the ACL was accurate, fair and lenient; however, he noted the Board had flexibility. He



commented that he felt it was unfair to penalize the County to this degree for implementing a project that had such long-term water quality benefits and that he did not want to discourage the County from implementing a reclamation project.

- **Motion:** Moved by Mr. Dyas, seconded by Mr. Brissenden for discussion to adopt the ACL in the amount of \$3,340 to match the cost of Regional Board staff time in developing the ACL.

Board members discussed the motion. Mr. Chapman noted that although he could support the motion, he was concerned with comments made by Mr. Slater regarding the County's hesitancy to perform future restoration projects because of the risk factors involved. Mr. Chapman noted that when the County accepted the responsibility, they incurred certain risk and he hoped the Board's action would not be interpreted as supporting Mr. Slater's comment. Dr. Horne agreed with Mr. Chapman and noted that the nature and benefits of the project did not diminish responsibility to comply with Board orders.

Mr. Singer commented that much had been learned from the project. He discussed the possibility of a supplemental environmental project (SEP) in the form of a workshop; however, he noted the proposal must come from the County. Mr. Singer suggested that if the County was interested in proposing a SEP, the Board could continue the public hearing for a period of two months to allow the County to come back to the Board with a proposal. Mr. Slater commented that he would prefer to see the matter concluded at the current meeting. He noted the County had considered sharing what they have learned by writing and publishing a journal and would likely do so regardless of the outcome of the ACL.

Mr. Sandel commented that a SEP implied that it was part of a penalty and noted the County had been willing participants and partners in the past. He suggested the Board conclude their action with the ACL amount suggested in the motion and allow the County and Lahontan staff to work on together outside of the ACL process. Mr. Chapman agreed with the approach outlined by Mr. Sandel and noted an ACL in the amount of \$3,340 would address staff costs with the difference being offset by the voluntary actions of the County.

Lori Okun suggested the following changes to the ACL Order (underlining for emphasis only):

- Page 4. a. change first sentence to read: On August 30 or 31, 2006 (hereafter "August 31"), the project contractor...
- Page 13, at the end of section j. *Other matters as justice may require*, add a paragraph to read:  
On the other hand, the project was unusually complex. In addition, the project as a whole significantly reduced the sediment load to Angora Creek and ultimately to Lake Tahoe.



- **Amended Motion:** Moved by Mr. Dyas, seconded by Mr. Brissenden to adopt the ACL in the amount of \$3,340 to match the cost of Regional Board staff time in developing the ACL, and to include the changes outlined by Ms. Okun. **Motion unanimously carried.**

### **OTHER BUSINESS**

#### **12. Election of Chair and Vice-Chair for 2007**

Dr. Horne noted she appointed Mr. Brissenden and Mr. Sandel to serve on a subcommittee to consider nominations for Chair and Vice Chair for 2007.

Mr. Brissenden thanked Dr. Horne for her willingness to serve as Chair for a second year. Mr. Brissenden and Mr. Sandel nominated Dr. Horne to serve as Chair and Mr. Clarke to serve as Vice Chair for 2007.

- **Motion:** Moved by Mr. Brissenden, seconded by Mr. Dyas **and unanimously carried** to elect Dr. Horne as Chair and Mr. Clarke as Vice Chair for 2007.

Mr. Chapman noted that Dr. Horne and Mr. Clarke were recently appointed by the Governor to full terms on the Board. Mr. Dyas thanked Dr. Horne for the decision to appoint the subcommittee.

#### **5. CLOSED SESSION**

The Board met in closed session from 11:20 a.m. to 11:59 a.m. to discuss Items b. c. i. and j. The Board reconvened in open session at noon.

### **OTHER BUSINESS**

#### **4. Executive Officer's Report, continued**

Mr. Singer gave a status report regarding the County Sanitation Districts of Los Angeles County, District Nos. 14 (Lancaster) and 20 (Palmdale).

#### **13. Reports by Chair and Board Members**

Mr. Brissenden noted the State Parks OHV Commission is in their fifth year of route designation and inventory. He encouraged staff to engage the various forests in the region to make certain the last year of route designation is effectively reviewed and completed.

Mr. Brissenden also noted the Sierra Nevada Conservancy is in the process of setting criteria and guidelines. Eighteen workshops have been scheduled throughout the region offering the public the opportunity to participate.



Dr. Horne gave a report regarding the State Water Board's strategic plan. A stakeholder summit will be held in Sacramento on March 12-13. Dr. Horne noted she plans to attend, if possible. State Board staff and the State Board's facilitator will hold a round of meetings with each of the Regional Boards beginning in April. The resulting document will be considered at the next Water Quality Coordinating Committee meeting. The intent is to develop a more comprehensive document, incorporating the concerns of the Regional Boards. The State Board hopes to adopt the strategic plan in June 2007.

Dr. Horne gave a report regarding a recent meeting she attended hosted by the Truckee River Watershed Council. The meeting provided an opportunity to discuss monitoring of the Truckee River watershed, including the Nevada portion of the Truckee River. Also discussed at the meeting was monitoring associated with the Truckee River Operating Agreement. Dr. Horne noted four Lahontan staff members attended the meeting. As a result of the meeting, a diverse group of people formed to develop a comprehensive monitoring strategy for the Truckee River watershed.

#### 14. **ADJOURNMENT OF MEETING**

With no further business to come before the Board, the meeting adjourned at 12:20 p.m. on February 15, 2007.

*Original signed by:*

Prepared by: \_\_\_\_\_ Adopted: April 11, 2007  
Laurie Applegate, Executive Assistant

