

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

**MEETING OF OCTOBER 14-15, 2009  
South Lake Tahoe**

**ITEM: 9**

**SUBJECT: PUBLIC HEARING – CONSIDERATION OF THE  
ISSUANCE OF CEASE AND DESIST ORDERS (CDO)  
FOR MULTIPLE PROPERTY OWNERS FOR THE  
DISCHARGE OR THREATENED DISCHARGE OF WASTE  
IN VIOLATION OF DISCHARGE PROHIBITIONS  
SPECIFIED BY THE WATER QUALITY CONTROL PLAN  
FOR THE LAHONTAN REGION AND, WHERE  
APPLICABLE, THE RESCISSION OF THE LISTED CEASE  
AND DESIST ORDER**

**CHRONOLOGY:** September 1984 The Water Board amended the *Water Quality Control Plan for the Lahontan Region* establishing a waste discharge prohibition for Spalding Tract development within the Eagle Lake Basin.

1991 The Water Board issued CDOs to Spalding Tract property owners requiring compliance with the prohibition.

June 25, 2008 Spalding Tract property owners were issued an Order to Submit a Technical Report identifying compliance plans.

June 10, 2009 The Water Board adopted Board Order No. R6T-2009-0039 rescinding CDOs issued in 1991 for multiple property owners who had complied with the prohibition or had sold their Spalding Tract property.

**ISSUE:** Should the Water Board adopt CDOs, pursuant to Water Code section 13301, for multiple Spalding Tract property owners?

09-0001

**DISCUSSION:**

In September 1984, the Water Board amended the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) to prohibit the discharge of waste containing nutrients from the Spalding Tract to groundwaters and surface waters of the Eagle Lake Basin. All such discharges were to cease after September 14, 1989. In pertinent part, the Basin Plan prohibition states:

“The discharge of waste from the Spaulding [sic] or Stones-Bengard subdivisions with other than a zero discharge of nutrients to any surface waters or ground waters in the Eagle Lake basin is prohibited after September 14, 1989.” (Basin Plan, Chapter 4, *Implementation*, Unit/Area-Specific Prohibitions for the Eagle Drainage Hydrologic Area at p. 4.1-4.)

On-site wastewater disposal systems (e.g., septic tank/leachfield systems, uncontained outhouses) discharge waste that contains nutrients to the ground. Continued use of such disposal systems results in the transport of nutrients to the groundwater in violation of the above-referenced Basin Plan prohibition. Therefore, the presence of such disposal systems on properties within the Spalding Tract constitutes, at a minimum, a threatened discharge in violation of a discharge prohibition prescribed by the Water Board. The Water Board is authorized to address this situation by adopting CDOs pursuant to Water Code section 13301.

In 1991, the Water Board issued CDOs to Spalding Tract property owners requiring them to comply with the Basin Plan prohibition by ceasing their wastewater discharges to on-site wastewater disposal systems within a specified time period. The compliance schedule was based in part upon the Eagle Lake Community Services District (District) constructing and operating a community wastewater system. The CDOs also contained a contingency compliance schedule to address the scenario where the community wastewater system was not built according to the schedule identified in the CDO (proposed completion date of September 1993).

The community wastewater system was not completed as proposed. Additionally, the Water Board did not actively pursue enforcement of the CDOs issued in 1991 because there was no readily available means by which the Spalding

Tract property owners could comply with the Basin Plan prohibition.

The District's community wastewater system became operational in October 2007. For the last two years the Spalding Tract property owners have had a readily available method to comply with the Basin Plan prohibition.

On September 15, 2009 a panel of the Water Board held a hearing to receive and consider evidence and comments on proposed Cease and Desist Orders prepared by the Water Board Prosecution Team. The evidence presented by the Prosecution team (Lassen County records) supports the fact that the property owners identified in Enclosures No. 1 and No. 2, hereinafter referred to as Dischargers, still have on-site wastewater disposal systems located on their properties that are subject to use (i.e., have not been properly abandoned).

The Prosecution Team had withdrawn its case against a number of property owners prior to the hearing because they had connected to the system or abandoned their systems. At the hearing the Prosecution Team withdrew its case against a few additional property owners for similar reasons. Additionally, since the hearing some property owners have either connected or abandoned their systems and they are not included in the list of Dischargers.

California Water Code section 13301 authorizes the Water Board to issue CDOs to persons discharging or threatening to discharge in violation of a Basin Plan prohibition. Based on the evidence in the record, the Water Board is authorized to issue CDOs against the Dischargers pursuant to Water Code section 13301.

A few Dischargers submitted written evidence either claiming financial hardship or an inability to comply by the December 31, 2009 deadline proposed by the Prosecution Team. At the hearing a few Dischargers testified that they would be taking steps to comply with the Basin Plan prohibition but were unsure if they could comply by the deadline proposed by the Prosecution Team. The Panel did not believe that this evidence or testimony supported any change in the compliance date proposed by the Prosecution Team.

Enclosed are two types of proposed CDOs. Each enclosure includes a list of property owners subject to that type of proposed CDO.

- (1) **Enclosure No. 1** - The first type of proposed CDO is for property owners who received a 1991 CDO and have not complied with the Basin Plan prohibition. This type of CDO will rescind the 1991 CDO and establish a new compliance schedule.
- (2) **Enclosure No. 2** - The second type of proposed CDO is for property owners who **did not** receive a 1991 CDO because they did not own the property in 1991. CDOs issued in 1991 for these properties have already been rescinded because of the change in ownership.

Both types of proposed CDOs establish the same compliance schedule, which requires the property owner to either connect to the District's wastewater treatment system or to properly abandon their on-site wastewater disposal system. One of the two actions must take place by December 31, 2009.

**RECOMMENDATION:**

Adoption of the proposed Cease and Desist Orders as proposed.

**ENCLOSURES:**

1. Proposed Cease and Desist Order that rescinds a 1991 Cease and Desist Order, and a list of the property owners and associated parcel numbers subject to this proposed Cease and Desist Order.
2. Proposed Cease and Desist Order that does not rescind a 1991 Cease and Desist Order, and a list of the property owners and associated parcel numbers subject to this proposed Cease and Desist Order.

09-0004

# ENCLOSURE 1

09-0005

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

**CEASE AND DESIST ORDER NO. R6T-2009-(PROPOSED)**

**REQUIRING [PROPERTY OWNER NAME, APN NO.] TO CEASE AND DESIST  
FROM DISCHARGING OR THREATENING TO DISCHARGE WASTE IN  
VIOLATION OF DISCHARGE PROHIBITION SPECIFIED BY THE *WATER  
QUALITY CONTROL PLAN FOR THE LAHONTAN REGION*; AND  
RESCINDING CEASE AND DESIST ORDER NO. [CDO NO.]  
SPALDING TRACT SUBDIVISION,  
EAGLE LAKE BASIN**

\_\_\_\_\_ Lassen County \_\_\_\_\_

The California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. [Property Owner Name], (hereafter "Discharger") own(s) Assessor Parcel No. [APN No.] in the Spalding Tract subdivision located on the west shore of Eagle Lake, approximately 20 miles northwest of Susanville, California. See Attachment A – Vicinity Map, which is made a part of this Order.
2. The Discharger owns and/or operate(s) an on-site wastewater disposal system located at the above-referenced parcel. The existence of an on-site wastewater disposal system that has not been properly abandoned at this location permits waste containing nutrients to be discharged, and/or threatens a discharge of waste containing nutrients, to waters within the Eagle Lake Basin.
3. In September 1984, the Water Board amended the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) to prohibit the discharge of sewage to on-site wastewater disposal systems in the Spalding Tract after September 14, 1989. In pertinent part, the Basin Plan prohibition states:  
"The discharge of waste from the Spaulding [sic] or Stones-Bengard subdivisions with other than a zero discharge of nutrients to any surface waters or ground waters in the Eagle Lake basin is prohibited after September 14, 1989." (Basin Plan, Chapter 4, *Implementation*, Unit/Area-Specific Prohibitions for the Eagle Drainage Hydrologic Area at p. 4.1-4.)
4. In 1991, the Water Board issued Cease and Desist Orders to the Spalding Tract property owners requiring that they cease and desist from discharging wastes in violation of the Basin Plan prohibition.

09-0006

5. The Water Board did not pursue enforcement of the Cease and Desist Orders issued in 1991 because there was no readily available means by which the Spalding Tract property owners could comply with the Basin Plan prohibition.
6. On October 22, 2007, the Spalding Community Services District (District) community wastewater system (system) became operational. As a result, there is now an available method for the Spalding Tract property owners to comply with the Basin Plan prohibition.
7. On June 25, 2008, the Water Board issued the Spalding Tract property owners<sup>1</sup> an Order to Submit a Technical Report pursuant to California Water Code section 13267 (13267 Order). The 13267 Order required the property owners to provide, by August 29, 2008, information demonstrating that the owner:
  - a. planned to connect to the District's system;
  - b. had already connected to the District's system;
  - c. planned to abandon their on-site wastewater disposal system; or
  - d. did not have an on-site wastewater disposal system.

The 13267 Order also informed property owners that the Water Board would consider them in compliance with the 13267 Order and the Basin Plan prohibition if by November 15, 2008, the property owners had connected to the District's system, properly abandoned their on-site wastewater disposal system, or demonstrated that there was no on-site wastewater disposal system on their parcel(s).

8. Based upon a review of Lassen County records, the Discharger has an on-site wastewater disposal system located on the parcel referenced in Finding No. 1, above. Additionally, based upon a review of District records, the Discharger has not connected to the District system. The Water Board has also not received information from Lassen County indicating that the Discharger has properly abandoned its on-site wastewater disposal system. Therefore, the Water Board finds that, at a minimum, the Discharger is threatening to discharge waste containing nutrients in violation of the Basin Plan prohibition described in Finding No. 3, above.
9. Water Code section 13301 states, in part:

"When a Regional Board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge

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<sup>1</sup> Orders for a Technical Report were sent to property owners where Lassen County Assessor records documented that the property owners' parcels had improvements that may include on-site wastewater disposal systems, and the parcel was not connected to the community wastewater system.

prohibitions prescribed by the regional board or the state board, the [regional] board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the [regional] board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.”

10. As noted in Finding No. 8, above, the Discharger, at a minimum, is threatening to discharge waste in violation of the Basin Plan prohibition described in Finding No. 3, above. Therefore, the Water Board is authorized to issue a Cease and Desist Order for the threatened discharge pursuant to Water Code section 13301.
11. The Water Board is issuing new Cease and Desist Orders to all Spalding Tract property owners that have an on-site wastewater disposal system and have not either connected to the District's system or properly abandoned their on-site wastewater disposal system. The Discharger is such a property owner as identified in Finding No. 8, above. The new Cease and Desist Orders reflect current property ownership and the availability of the District's system as a means of compliance, and establish a new compliance schedule.
12. The Water Board has already rescinded many of the 1991 Cease and Desist Orders, based upon compliance with the Basin Plan prohibition and change in ownership that has occurred since issuing the 1991 Cease and Desist Orders. Even though the Discharger has not complied with its 1991 Cease and Desist Order, this Cease and Desist Order rescinds the 1991 Cease and Desist Order issued to the Discharger. The purpose of rescinding the 1991 Cease and Desist Order and issuing a new one is to establish a new compliance schedule consistent with the schedule being established for all other Spalding Tract property owners that continue to have an on-site wastewater disposal system, and have not either connected to the District's system or properly abandoned their on-site wastewater disposal system.
13. Water Code section 13267, subdivision (b) states:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of the waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The

burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring these reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

14. The technical reports required by this Order are necessary to ensure compliance with the discharge prohibition described in Finding No. 3, above, and this Cease and Desist Order, as well as to ensure protection of waters of the state, and to protect public health and the environment. The burden, including costs, of the reports required by this Order bear a reasonable relationship to the need for the reports and the benefits to be obtained therefrom.
15. The Water Board notified the Discharger and interested persons of its intent to consider adoption of this Cease and Desist Order, and provided an opportunity to submit written comments and appear at a public hearing. The Water Board, in a public hearing, heard and considered all comments.
16. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.
17. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**THEREFORE, IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13301 and 13267, the Discharger shall cease and desist from discharging wastes or threatening to discharge wastes, in violation of the Basin Plan prohibition and shall comply with the other provisions of this Order:

1. Cease and Desist Order No. [CDO No.] is hereby rescinded.
2. By **December 31, 2009**, the Discharger must complete one of the following:

09-0009

- a. Connect to the District's system.
  - b. Abandon the on-site wastewater disposal system on the Discharger's property, Assessor Parcel No. [APN No.]
3. By **January 15, 2010**, the Discharger must complete one of the following:

- a. If the Discharger has connected to the District's system, pursuant to option 2.a., above, the Discharger must request, both orally and in writing, that the District include its property on the list of properties connected to the District's system. The District's contact information is as follows:

Spalding Community Services District  
502-907 Mahogany Way  
Susanville, CA 96130  
(530) 825-3258

The Water Board must be copied on the written request, attention Taylor Zentner. Compliance with this provision will be determined by the Water Board through a review of the District's list.

- b. If the Discharger has abandoned the on-site waste disposal system, pursuant to option 2.b., above, the Discharger must request, both orally and in writing, that the Lassen County Environmental Health Department (County) inspect the Discharger's property to verify that the on-site waste disposal system has been abandoned. The County's contact information is as follows:

Lassen County Environmental Health  
1445 Paul Bunyan Road  
Susanville, CA 96130  
(530) 251-8528

The Water Board must be copied on the written request, attention Taylor Zentner. Additionally, the Discharger shall provide the Water Board with a "Certification of Abandonment" provided by the County.

- c. Provide a technical report (form included as Attachment B of this Order) documenting that the Discharger's property does not have an on-site wastewater disposal system. The report must include all information necessary to assist the Water Board in verifying the parcel number, street address, and the exact location of the Discharger's property, and any improvements to the property. The Discharger must provide written consent to allow Water Board staff to enter the Discharger's property for the purpose of verifying the absence of on-site wastewater disposal

systems. If the Discharger wishes to be present during the inspection, the Discharger is requested to provide their contact information or the contact information of the person they wish to be present during the inspection. Contact information must include: name, mailing address, physical address of Spalding Tract property, phone number(s), and email address, if any.

4. The information required in paragraphs 3.a. through 3.c., above, is required to be provided pursuant to Water Code section 13267 (see Attachment C – Water Code section 13267 Fact Sheet), and is necessary to ensure that the person or persons to whom this Order is issued have taken appropriate action to abate the discharge, and/or threatened discharge, of waste in violation of the Basin Plan prohibition.

Failure to comply with the terms or conditions of this Cease and Desist Order will result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to Water Code sections 13350 and/or 13268, or referral to the Attorney General of the State of California for such legal action as he may deem appropriate.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region on October 14, 2009.

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HAROLD J. SINGER  
EXECUTIVE OFFICER

Attachment A: Vicinity Map

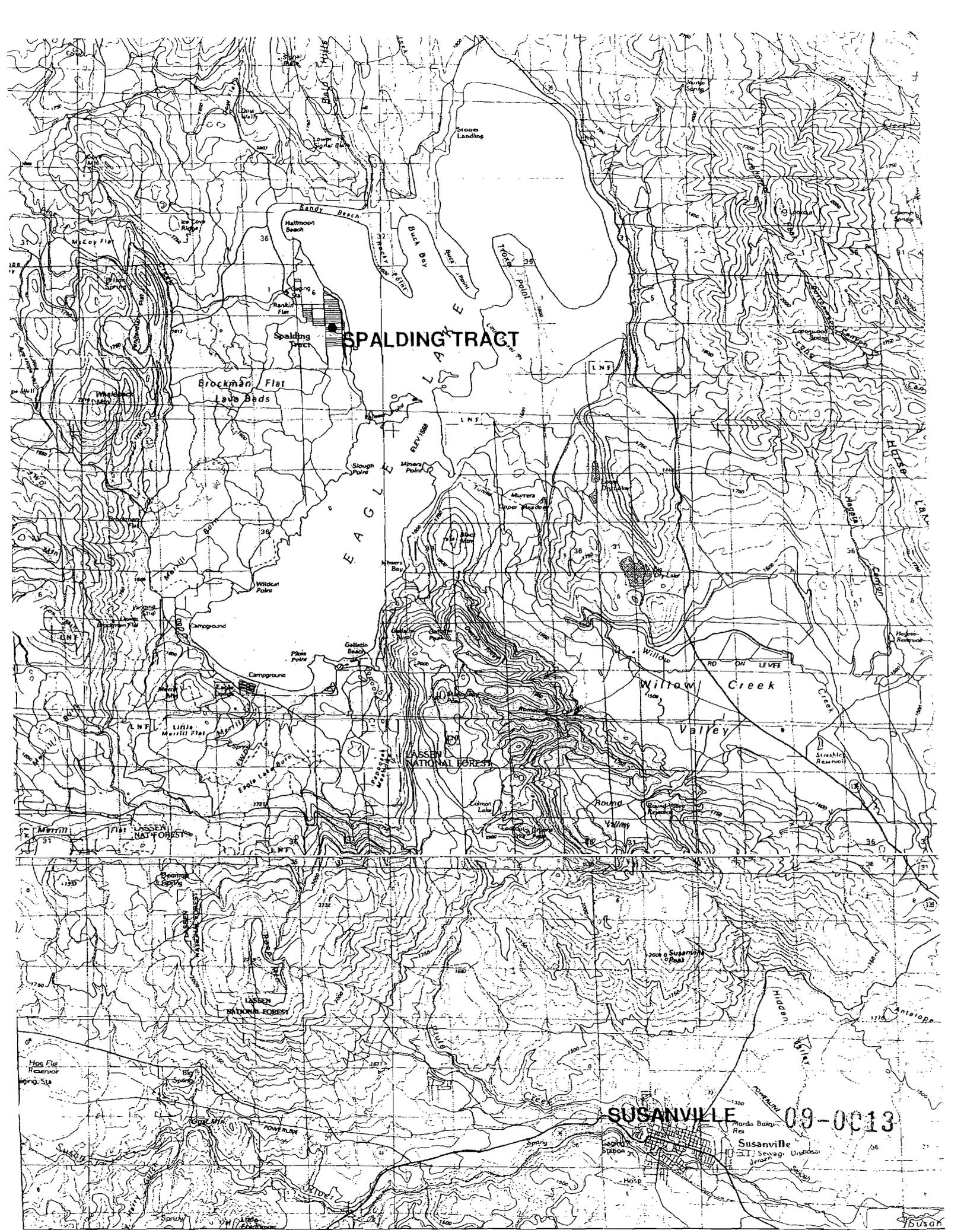
Attachment B: Technical Report Form – No On-site Waste Disposal Certification

Attachment C: Water Code section 13267 Fact Sheet

09-0011

# **ATTACHMENT A**

09-0012



09-0013

# ATTACHMENT B

09-0014

## Technical Report Form No On-site Waste Disposal Certification

Property Owner Name (print)	
Assessor's Parcel Number	
Street Address	

Please list any improvements to the above-listed property, including but not limited to, any structures, wells, utilities, or septic tanks located on the property. Use additional paper if necessary.

Improvements:
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For the purpose of verifying the absence of on-site waste disposal systems, the Discharger must provide written consent to allow Water Board staff to enter the Discharger's property. Please complete the following sections.

Permission to allow inspection.

I, _____ (print property owner's name), do hereby provide consent to allow Water Board staff to enter my property for the purpose of verifying the absence of on-site waste disposal systems.
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09-0015

Would you like to be present during the inspection?

I, \_\_\_\_\_ (print property owner's name),

Would like to be present during the inspection

Would like someone other than myself to be present during the inspection

Do not wish to be present during the inspection

If you would like to be present during the inspection, provide your contact information or the contact information of the person you wish to be present during the inspection.

Name of person to be present	
Phone number	
Mailing address	
Cell phone number (if available)	
E-Mail Address (if available)	

I hereby certify that the above information is true and correct. I understand that failure to provide complete and accurate information may result in the imposition of administrative or judicial civil liability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

09-0016

# ATTACHMENT C

09-0017

**Fact Sheet – Requirements for Submitting Technical Reports  
Under Section 13267 of the California Water Code**

October 8, 2008

**What does it mean when the regional water board requires a technical report?**

Section 13267<sup>1</sup> of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

**This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?**

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

**Are there limits to what the regional water board can ask for?**

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

**What if I can provide the information, but not by the date specified?**

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

**Are there penalties if I don't comply?**

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

**What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?**

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of the Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**Claim of Copyright or other Protection**

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public, pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

**If I have more questions, who do I ask?**

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

<sup>1</sup> All code sections referenced herein can be found by going to [www.leginfo.ca.gov](http://www.leginfo.ca.gov). Copies of the regulations cited are available from the Regional Board upon request.

**List of Spalding Tract Property Owners  
Receiving a Proposed Cease and Desist Order  
that Includes the Rescission of a  
1991 Cease and Desist Order**

List of Spalding Tract Property Owners Receiving a Proposed Cease and Desist Order that Includes the Rescission of a 1991 Cease and Desist Order

APN	1991 CDO to be Rescinded	Property Owner
077-213-13-11	6-91-325	COLEMAN, RONALD & STEPHANIE
077-351-28-11	6-91-415	EVANS, DAVE M
077-191-20-11	6-91-350	CUNHA, NANCY L
077-172-16-11	6-91-568	MACIAS, RAYMOND & MARJORIE A.
077-354-17-11	6-91-484	HEGSTAD, MILES K
077-392-19-11	6-91-498	HERITAGE LAND CO.
077-204-15-11	6-91-528 and 6-91-527	KISH, LEONORE M
077-394-15-11	6-91-586	MERRITT, ROBERT L. & JOAN L.
077-192-31-11	6-91-606	MUELLER, GARY M
077-383-40-11	6-91-641	PARKER, THEODORE & PATRICIA TRUST
077-192-38-11	6-91-667	RAMOS, DANIEL J & KATHRYN S
077-271-20-11	6-91-716	SIDERS, KATHRYN D. C/O WALL, R. CONSERVATOR
077-392-22-11	6-91-895	SPECIALE, GEORGE D.
077-232-43-11	6-91-831	STEBBINS, LORETTA
077-381-14-11	6-91-748	STIMMELL, JAMES BRADLEY
077-381-09-11	6-91-784	VALENA, JOHN L. & BEVERLY M.
077-251-40-11	6-91-899	WALKER, RUDOLPH SOYKA & REBECCA JT

# ENCLOSURE 2

09-0020

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

**CEASE AND DESIST ORDER NO. R6T-2009-(PROPOSED)**

**REQUIRING [PROPERTY OWNER NAME, APN NO. ], TO CEASE AND  
DESIST FROM DISCHARGING OR THREATENING TO DISCHARGE WASTE  
IN VIOLATION OF DISCHARGE PROHIBITION SPECIFIED BY THE WATER  
QUALITY CONTROL PLAN FOR THE LAHONTAN REGION;  
SPALDING TRACT SUBDIVISION,  
EAGLE LAKE BASIN**

Lassen County

The California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. [Property Owner Name], (hereafter "Discharger") own(s) Assessor Parcel No. [APN No.] in the Spalding Tract subdivision located on the west shore of Eagle Lake, approximately 20 miles northwest of Susanville, California. See Attachment A – Vicinity Map, which is made a part of this Order.
2. The Discharger owns and/or operate(s) an on-site wastewater disposal system located at the above-referenced parcel. The existence of an on-site wastewater disposal system that has not been properly abandoned at this location permits waste containing nutrients to be discharged, and/or threatens a discharge of waste containing nutrients, to waters within the Eagle Lake Basin.
3. In September 1984, the Water Board amended the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) to prohibit the discharge of sewage to on-site wastewater disposal systems in the Spalding Tract after September 14, 1989. In pertinent part, the Basin Plan prohibition states:  
"The discharge of waste from the Spaulding [sic] or Stones-Bengard subdivisions with other than a zero discharge of nutrients to any surface waters or ground waters in the Eagle Lake basin is prohibited after September 14, 1989." (Basin Plan, Chapter 4, *Implementation*, Unit/Area-Specific Prohibitions for the Eagle Drainage Hydrologic Area at p. 4.1-4.)
4. In 1991, the Water Board issued Cease and Desist Orders to the Spalding Tract property owners requiring that they cease and desist from discharging wastes in violation of the Basin Plan prohibition.

09-0021

5. The Water Board did not pursue enforcement of the Cease and Desist Orders issued in 1991 because there was no readily available means by which the Spalding Tract property owners could comply with the Basin Plan prohibition.
6. On October 22, 2007, the Spalding Community Services District (District) community wastewater system (system) became operational. As a result, there is now an available method for the Spalding Tract property owners to comply with the Basin Plan prohibition.
7. On June 25, 2008, the Water Board issued the Spalding Tract property owners<sup>1</sup> an Order to Submit a Technical Report pursuant to California Water Code section 13267 (13267 Order). The 13267 Order required the property owners to provide, by August 29, 2008, information demonstrating that the owner:
  - a. planned to connect to the District's system;
  - b. had already connected to the District's system;
  - c. planned to abandon their on-site wastewater disposal system; or
  - d. did not have an on-site wastewater disposal system.

The 13267 Order also informed property owners that the Water Board would consider them in compliance with the 13267 Order and the Basin Plan prohibition if by November 15, 2008, the property owners had connected to the District's system, properly abandoned their on-site wastewater disposal system, or demonstrated that there was no on-site wastewater disposal system on their parcel(s).

8. Based upon a review of Lassen County records, the Discharger has an on-site wastewater disposal system located on the parcel referenced in Finding No. 1, above. Additionally, based upon a review of District records, the Discharger has not connected to the District system. The Water Board has also not received information from Lassen County indicating that the Discharger has properly abandoned its on-site wastewater disposal system. Therefore, the Water Board finds that, at a minimum, the Discharger is threatening to discharge waste containing nutrients in violation of the Basin Plan prohibition described in Finding No. 3, above.
9. Water Code section 13301 states, in part:

“When a Regional Board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge

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<sup>1</sup> Orders for a Technical Report were sent to property owners where Lassen County Assessor records documented that the property owners' parcels had improvements that may include on-site wastewater disposal systems, and the parcel was not connected to the community wastewater system.

prohibitions prescribed by the regional board or the state board, the [regional] board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the [regional] board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.”

10. As noted in Finding No. 8, above, the Discharger, at a minimum, is threatening to discharge waste in violation of the Basin Plan prohibition described in Finding No. 3, above. Therefore, the Water Board is authorized to issue a Cease and Desist Order for the threatened discharge pursuant to Water Code section 13301.
11. The Water Board is issuing new Cease and Desist Orders to all Spalding Tract property owners that have an on-site wastewater disposal system and have not either connected to the District's system or properly abandoned their on-site wastewater disposal system. The Discharger is such a property owner as identified in Finding No. 8, above. The new Cease and Desist Orders reflect current property ownership and the availability of the District's system as a means of compliance and establish a new compliance schedule.
12. On June 10, 2009, the Water Board rescinded the Cease and Desist Order that was issued in 1991 for the parcel referenced in Finding No. 1, above. The 1991 Cease and Desist Order was rescinded due to a change in ownership that occurred after the Water Board issued the 1991 Cease and Desist Order.
13. Water Code section 13267, subdivision (b) states:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of the waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring these reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

14. The technical reports required by this Order are necessary to ensure compliance with the discharge prohibition described in Finding No. 3, above, and this Cease and Desist Order, as well as to ensure protection of waters of the state, and to protect public health and the environment. The burden, including costs, of the reports required by this Order bear a reasonable relationship to the need for the reports and the benefits to be obtained therefrom.
15. The Water Board notified the Discharger and interested persons of its intent to consider adoption of this Cease and Desist Order, and provided an opportunity to submit written comments and appear at a public hearing. The Water Board, in a public hearing, heard and considered all comments.
16. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.
17. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m. 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:  
[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)  
or will be provided upon request.

**THEREFORE, IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13301 and 13267, the Discharger shall cease and desist from discharging wastes or threatening to discharge wastes, in violation of the Basin Plan prohibition and shall comply with the other provisions of this Order:

1. By **December 31, 2009**, the Discharger must complete one of the following:
  - a. Connect to the District's system.
  - b. Abandon the on-site wastewater disposal system on the Discharger's property, Assessor Parcel No. [APN No.]
2. By **January 15, 2010**, the Discharger must complete one of the following:

09-0024

- a. If the Discharger has connected to the District's system, pursuant to option 1.a., above, the Discharger must request, both orally and in writing, that the District include its property on the list of properties connected to the District's system. The District's contact information is as follows:

Spalding Community Services District  
502-907 Mahogany Way  
Susanville, CA 96130  
(530) 825-3258

The Water Board must be copied on the written request, attention Taylor Zentner. Compliance with this provision will be determined by the Water Board through a review of the District's list.

- b. If the Discharger has abandoned the on-site wastewater disposal system, pursuant to option 1.b., above, the Discharger must request, both orally and in writing, that the Lassen County Environmental Health Department (County) inspect the Discharger's property to verify that the on-site waste disposal system has been abandoned. The County's contact information is as follows:

Lassen County Environmental Health  
1445 Paul Bunyan Road  
Susanville, CA 96130  
(530) 251-8528

The Water Board must be copied on the written request, attention Taylor Zentner. Additionally, the Discharger shall provide the Water Board with a "Certification of Abandonment" provided by the County.

- c. Provide a technical report (form included as Attachment B of this Order) documenting that the Discharger's property does not have an on-site wastewater disposal system. The report must include all information necessary to assist the Water Board in verifying the parcel number, street address, and the exact location of the Discharger's property, and any improvements to the property. The Discharger must provide written consent to allow Water Board staff to enter the Discharger's property for the purpose of verifying the absence of on-site wastewater disposal systems. If the Discharger wishes to be present during the inspection, the Discharger is requested to provide their contact information or the contact information of the person they wish to be present during the inspection. Contact information must include: name, mailing address, physical address of Spalding Tract property, phone number(s), and email address, if any.

09-0025

3. The information required in paragraphs 2.a. through 2.c., above, is required to be provided pursuant to Water Code section 13267 (see Attachment C – Water Code section 13267 Fact Sheet), and is necessary to ensure that the person or persons to whom this Order is issued have taken appropriate action to abate the discharge, and/or threatened discharge, of waste in violation of the Basin Plan prohibition.

Failure to comply with the terms or conditions of this Cease and Desist Order will result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to Water Code sections 13350 and/or 13268, or referral to the Attorney General of the State of California for such legal action as he may deem appropriate.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region on October 14, 2009.

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HAROLD J. SINGER  
EXECUTIVE OFFICER

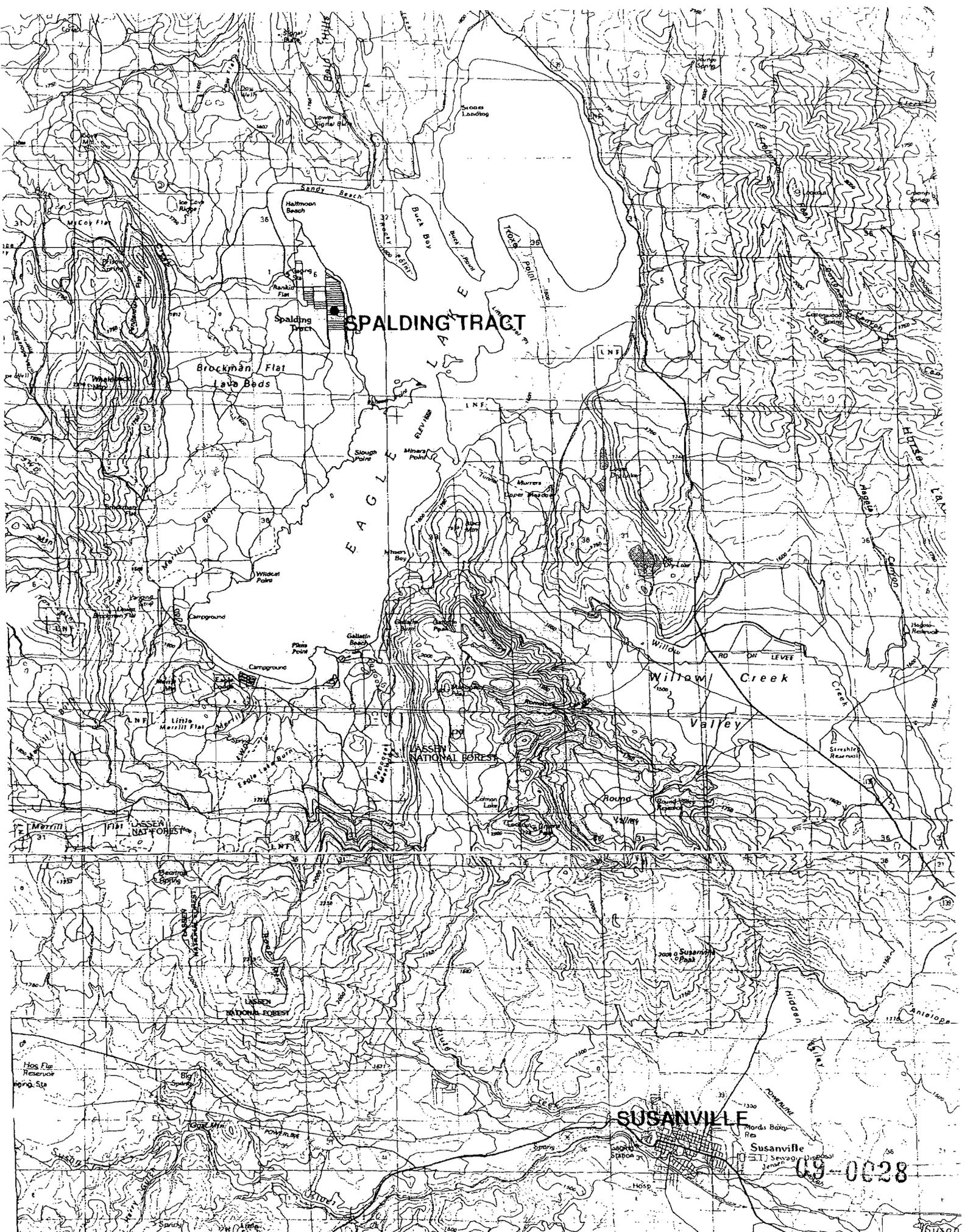
Attachment A: Vicinity Map

Attachment B: Technical Report Form – No On-site Waste Disposal Certification

Attachment C: Water Code section 13267 Fact Sheet

# ATTACHMENT A

09-0027



**SPALDING TRACT**

LASSEN NATIONAL FOREST

**SUSANVILLE**

09-0028

# **ATTACHMENT B**

09-0029

## Technical Report Form No On-site Waste Disposal Certification

Property Owner Name (print)	
Assessor's Parcel Number	
Street Address	

Please list any improvements to the above-listed property, including but not limited to, any structures, wells, utilities, or septic tanks located on the property. Use additional paper if necessary.

Improvements:
---------------

For the purpose of verifying the absence of on-site waste disposal systems, the Discharger must provide written consent to allow Water Board staff to enter the Discharger's property. Please complete the following sections.

Permission to allow inspection.

I, _____ (print property owner's name), do hereby provide consent to allow Water Board staff to enter my property for the purpose of verifying the absence of on-site waste disposal systems.
---

09-0030

Would you like to be present during the inspection?

I, \_\_\_\_\_ (print property owner's name),

- Would like to be present during the inspection
- Would like someone other than myself to be present during the inspection
- Do not wish to be present during the inspection

If you would like to be present during the inspection, provide your contact information or the contact information of the person you wish to be present during the inspection.

Name of person to be present	
Phone number	
Mailing address	
Cell phone number (if available)	
E-Mail Address (if available)	

I hereby certify that the above information is true and correct. I understand that failure to provide complete and accurate information may result in the imposition of administrative or judicial civil liability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

09-0031

# ATTACHMENT C

09-0032

**Fact Sheet – Requirements for Submitting Technical Reports  
Under Section 13267 of the California Water Code**

October 8, 2008

**What does it mean when the regional water board requires a technical report?**

Section 13267<sup>1</sup> of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

**This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?**

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

**Are there limits to what the regional water board can ask for?**

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

**What if I can provide the information, but not by the date specified?**

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

**Are there penalties if I don't comply?**

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

<sup>1</sup> All code sections referenced herein can be found by going to [www.leginfo.ca.gov](http://www.leginfo.ca.gov). Copies of the regulations cited are available from the Regional Board upon request.

**What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?**

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of the Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**Claim of Copyright or other Protection**

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public, pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

**If I have more questions, who do I ask?**

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

**List of Spalding Tract Property Owners  
Receiving a Proposed Cease and Desist Order  
that Does Not Include the Rescission of a 1991  
Cease and Desist Order**

**List of Spalding Tract Property Owners Receiving a Proposed Cease and Desist Order that Does Not Include the Rescission of a 1991 Cease and Desist Order**

APN	Property Owner
077-234-22-11	BAILEY TRUST ETAL
077-394-20-11	BARKER, JEFFREY & BARBARA JT
077-254-28-11	BISHOW, RAYMOND L
077-232-41-11	BIXBY, WILLIAM D & ANN R CPRS
077-354-24-11	BOBBITT, GALEN L & MONIQUE L ETAL
077-201-09-11	BUSH, JAMES K & DEBRA M JT
077-371-06-11	BUSKIRK, JEFFERY O & MARGARET A JT
077-303-27-11	CHANDLER, DIANE & GENTRY, BETTIFAE
077-173-35-11	CLARK, MARK L & REATHA PAULINE JT
077-232-42-11	CONTRERAS, ROBERT SR & CYNDI L
077-393-14-11	CRETE, JOSEPH C & TERRI JT
077-223-23-11	DAVIS, PATRICIA CANDIS C/O EMBER A DAVIS
077-233-47-11	ESTES, KENNETH P & MARY L JT
077-222-21-11	FOULK, BENJAMIN L
077-302-16-11	FRACK, LARRY ALAN
077-223-25-11	GARDNER, JANE E ETAL
077-351-03-11	HAINES, CIDNE J ETAL
077-343-23-11	HASTY, CLARENCE & VIRGINIA REVOCABLE LIVING TRUST
077-322-09-11	LUTZ, JOY L
077-361-23-11	NEIL, GERALD & JANET JT
077-143-10-11	NEIL, GERALD E. & JANET E. CPRS
077-163-06-11	NEIL, GERALD E. & JANET E. JT
077-271-09-11	NEIL, GERALD E. & JANET E. JT
077-272-43-11	NEIL, GERALD E. & JANET E. JT
077-133-10-11	NEIL, GERALD E. & JANET HWJT
077-201-04-11	RUDLUFF, CAROLINE M TR
077-293-10-11	ZUCCATO, MICHAEL W & LINDA J REVOCABLE TRUST
077-372-16-11	HELMER, NASON JAMES & GAIL ANN REVOCABLE TRUST
077-378-24-11	JEFFERY, JAMES
077-352-19-11	JOHNSTON FAMILY TRUST
077-283-16-11	KOCH, LINDA C REVOCABLE TRUST % KOCH, LINDA C TRUSTEE
077-264-09-11	KOCH, THOMAS CHARLES
077-132-16-11	KORB, JOHN & BARBARA JT
077-391-11-11	MANGER FAMILY TRUST
077-161-20-11	MATTHIAS, PAUL L & DONNA JT
077-231-30-11	MAYER, MARIE LOUISE TRUST c/o NICOLE VANSLAT
077-363-28-11	MCCANN, DAVID T & MONTGOMERY, DAVA D HWJT
077-334-16-11	MCMILLEN, TANYA & JERRY CPRS
077-254-29-11	MCMILLEN, TANYA L & JERRY L
077-191-29-11	MITCHELL, BOB 1995 REVOCABLE TRUST
077-161-21-11	MUELLER, GARY MELVIN
077-381-16-11	MULLER, THOMAS J & ROBERTA L
077-292-11-11	NANCO, INC
077-401-11-11	NAYLOR, MITCHELL CREIG & GINGER JT
077-304-57-11	NEELY, TOM F & BECKY & NEELY, DARIN R & YVETTE JT
077-411-18-11	OLIVER, JEFFREY W & LENA D JT
077-411-19-11	OLIVER, JEFFREY W & LENA D JT
077-382-15-11	PARKER, THEODORE & PATRICIA TRUST

List of Spalding Tract Property Owners Receiving a Proposed Cease and Desist Order that Does Not Include the Rescission of a 1991 Cease and Desist Order

APN	Property Owner
077-191-27-11	PEACOCK, BETSY A & TOBIN, LOUIS J HWJT
077-311-33-11	PRATT, WILLIAM H. & MARJORIE L. TC ETAL
077-200-02-11	ROBINSON, GARY L
077-200-03-11	ROBINSON, GARY L
077-391-07-11	SCHMIDT, KENNETH & CYNTHIA JT
077-361-22-11	SCHUMACHER, ARMIN & BOCK, CHRISTINA JT
077-273-36-11	SEBASTIANI, PIERO REVOCABLE TRUST ETAL
077-331-46-11	SHIMP, GLENN R & DIANE M HW ETAL
077-353-25-11	SIEVERS, WILLIAM A & JEANETTE
077-403-22-11	SITES, VALERIE V
077-271-16-11	SMITH, BRYAN & TOKE JT
077-253-27-11	SMITH, JOHN & ALICE 1995 LIVING TRUST
077-294-13-11	STEINER LIVING TRUST C/O MICHAEL & JULIE STEINER
077-254-27-11	STEINOCHE, DANIEL G. & LINDA L. JT
077-271-19-11	SUTTON, DENNIS J. & ETAL DEBORAH L. JT
077-351-21-11	THOMAS, TREVOR P & LAURETTA R
077-274-25-11	WALKER, RUDOLPH SOYKA & REBECCA JT
077-234-43-11	WILLIAMS, RICHARD L & PATRICIA C HWJT
077-383-36-11	WILLIFORD, GEORGE CALVIN TRST
077-412-17-11	WILSON, KENNETH JR & VALERI
077-162-03-11	WINTERS, LAUREL G

09 0035