



**California Regional Water Quality Control Board**  
**Lahontan Region**



Linda S. Adams  
*Secretary of  
 Environmental Protection*

Arnold Schwarzenegger  
*Governor*

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**MINUTES**  
**October 14-15, 2009**

**Regular Meeting**

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

Mr. Clarke, Chair, called the meeting to order at 2:30 p.m. on October 14, 2009.

**Board Members Present**

James W. M. Charlton, Palmdale  
 Jack Clarke, Apple Valley  
 Mike Dispenza, Palmdale  
 Amy Horne, Ph.D., Truckee  
 Don Jardine, Markleeville  
 Eric Sandel, Truckee

**Board Member Absent**

Keith Dyas, Rosamond

**State Water Board Liaison to Lahontan Water Board**

Art Baggett, Member, State Water Resources Control Board

**Legal Counsel**

David Coupe, Office of Chief Counsel, State Water Resources Control Board  
 David Boyers, Office of Enforcement, State Water Resources Control Board

**Court Reporter for Items 1 and 9**

Esther Schwartz, Capitol Reporters

**Staff Present**

Harold Singer, Executive Officer	Scott Ferguson, Senior WRCE
Charles Curtis, Supervising WRCE	Karensa Kruse, Student
Lauri Kemper, Supervising WRCE	Eric Shay, Assoc. Governmental Program Analyst
Laurie Applegate, Executive Assistant	Doug Smith, Senior Engineering Geologist
Richard Booth, Senior Engineering Geologist	Judith Unsicker, Staff Environmental Scientist
Lisa Dernbach, Senior Engineering Geologist	Taylor Zentner, Environmental Scientist
Taylor Farnum, Environmental Scientist	

***California Environmental Protection Agency***

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**Addressing the Board**

Art Baggett, Member, State Water Board  
Tom Erickson  
Mike Sullivan, Los Angeles County Sanitation Districts

**INTRODUCTIONS**

**ENFORCEMENT**

1. **Consideration of an Administrative Civil Liability Order for Mohammad Ahmad and the Thomas E. Erickson Trust for Violations of (1) California Water Code section 13267 and (2) California Water Code section 13304 – Tahoe Tom’s Gas Station, El Dorado County**

Note: A transcript of this item is available by contacting Esther Schwartz, Capitol Reporters

Chairman Clarke opened the public hearing, read a statement outlining the procedures to be followed during the hearing, and administered the oath. Chairman Clarke noted the functions of Water Board staff for this matter as follows:

**Advisory Team**

Harold Singer, Executive Officer  
David Coupe, Attorney, State Water Board’s Office of Chief Counsel

**Prosecution Team**

Chuck Curtis, Supervising Water Resources Control Engineer  
Lisa Dernbach, Senior Engineering Geologist  
Scott Ferguson, Senior Water Resources Control Engineer  
David Boyers, Attorney, State Water Board’s Office of Enforcement

**Designated Parties**

Prosecution Team  
Mr. Mohammad Ahmad  
Thomas E. Erickson Trust

Mr. Coupe noted the Board received a letter by fax the afternoon of October 14 from Mr. Scharf, attorney representing Thomas E. Erickson Trust, pertaining to the matter before the Board. Mr. Coupe commented that in his view, the letter represented an effort to include written testimony or evidence as part of the proceeding, contrary to the revised hearing procedures issued in July. Mr. Coupe recommended the letter not be admitted into the record. Chairman Clarke concurred with Mr. Coupe’s recommendation and the letter was not admitted into the record.



Testimony by Lahontan Water Board Prosecution Team

David Boyers gave an opening statement. Lisa Dernbach gave the prosecution team's presentation, discussed late revisions to the order, and recommended the Board adopt the Administrative Civil Liability Order (ACL Order) in the amount of \$248,400 with the late revisions. Ms. Dernbach answered questions from the Board and from the advisory team.

Cross-examination of Prosecution Team

None.

Testimony by Mr. Mohammad Ahmad

Mr. Ahmad was not present at the hearing. No testimony, cross examination, rebuttal testimony or closing statement was given.

Testimony by Thomas E. Erickson Trust

Tom Erickson, representing Thomas E. Erickson Trust, gave testimony and answered questions from the Board.

Cross-examination of Thomas E. Erickson Trust by David Boyers

David Boyers cross examined Mr. Erickson.

Comments by Interested Persons

None.

Rebuttal Testimony by Thomas E. Erickson Trust.

Mr. Erickson gave rebuttal testimony and answered questions from the Board.

Rebuttal Testimony by the Water Board Prosecution Team

None.

Closing Statement by Thomas E. Erickson Trust

None.

Closing Statement by the Water Board Prosecution Team

Mr. Boyers gave the closing statement on behalf of the prosecution team. He noted the prosecution team proposed a penalty of \$248,400 and urged the Board to treat that as a floor and not a ceiling in their deliberations.

Closed Session

The Board met in closed session from 3:45 p.m. to 4:00 p.m. to discuss Item k (see Item 3 of the agenda announcement). The Board reconvened in open session at 4:01 p.m.

Open Session, Public Hearing Closed, Board Deliberation

Chairman Clarke closed the public hearing.



Mr. Charlton commented that a message should be sent to the dischargers that they need to stop polluting and to take Board staff seriously when told to clean up discharges and submit reports. He noted that Mr. Ahmad had not shown up at the hearing. He suggested the Board double the fine.

Dr. Horne commented that of the various violations, the most egregious one was failing to continually operate the remediation system because it made the situation significantly worse. Dr. Horne recommended the Board consider doubling the entire fine or tripling the fine for Directive 4.3. Board members agreed with Dr. Horne and discussed increasing the fine.

Mr. Singer discussed administrative civil liability amounts for violations of Water Code sections 13304 and 13267. Mr. Singer recommended the Board consider doubling the amount of the fine proposed by the prosecution team for Directives 4.3, 5.2 and 7 and leave the fine for Directives 4.2, 6.1, 6.2, and 6.3 at the amount proposed by the prosecution team. Dr. Horne noted the fine would then amount to a total of \$412,900. In addition, Mr. Singer noted that the figures on page 10, number 3 of the ACL Order would change to \$155,900 to be paid to the State Board's Cleanup and Abatement Account and \$257,000 to be paid to the State Board's Waste Discharge Permit Fund for a total administrative civil liability assessment of \$412,900.

- **Motion:** Moved by Mr. Charlton, seconded by Mr. Dispenza and **unanimously carried** to adopt the Administrative Civil Liability Order with the changes to the amounts of the fine suggested by Mr. Singer as stated in the record and with the changes in the late revision sheet suggested by Ms. Dernbach.

### **ART BAGGETT, STATE WATER BOARD LIAISON TO LAHONTAN WATER BOARD**

Art Baggett, Member of the State Water Board and liaison to the Lahontan Water Board, gave an update regarding water rights and water quality issues being considered by the State Water Board.

The Board recessed for dinner at 5:00 p.m.



**Regular Meeting, continued**  
**7:00 p.m., October 14, 2009**

Mr. Clarke, Chair, called the meeting to order at 7:00 p.m.

Board members present: James W. M. Charlton, Jack Clarke, Mike Dispenza, Amy Horne, Don Jardine, and Eric Sandel. Board member absent: Keith Dyas.

Mr. Singer informed the Board that Joe Koutsky passed away on October 12. Joe worked in the Victorville office for over ten years as a Water Resource Control Engineer. Mr. Singer noted that Joe was a dynamic, warm person and will be missed. The Board observed a moment of silence in memory of Joe.

**4. PUBLIC FORUM**

No one addressed the Board during the Public Forum.

**5. MINUTES**

**Minutes of the Regular Meeting of September 9, 2009 in South Lake Tahoe and Victorville (video/teleconference using two locations)**

- **Motion:** Moved by Mr. Dispenza, seconded by Mr. Jardine and **unanimously carried** to adopt the September 9, 2009 minutes as written.

**6. ADOPTION OF THE UNCONTESTED CALENDAR**

Note: An (\*) appears next to items adopted by the Board on the uncontested calendar.

Mr. Singer recommended the Board adopt Items 7 and 8 as proposed on the uncontested calendar.

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS**

- \*7. Doyle Plant/Baldwin Contracting Company, Lassen County (6-82-72)  
Conway Sand and Gravel, Lassen County (6-86-69)  
Wolfe Estates Subdivision, Nevada County (6-92-14)  
Placer County Government Center, Placer County (6-95-17)  
Tahoe Tavern Shoreline Construction, Placer County (6-89-129)  
Lake Tahoe Auto Village, El Dorado County (6-94-115A2)  
Delta Tahoe Industrial Property, El Dorado County (6-93-04)**



**OTHER BUSINESS**

**\*8. Resolution Authorizing Expenditure of Funds from the Tahoe Keys Mitigation Fund for the California Tahoe Conservancy's Upper Truckee River Sunset Stables Reach 6 Restoration Project, El Dorado County**

- **Motion:** Moved by Dr. Horne, seconded by Mr. Dispenza and **unanimously carried** to adopt Items 7 and 8 as proposed on the uncontested calendar.

**ENFORCEMENT**

**9. Consideration of the Issuance of Cease and Desist Orders for the Dischargers Listed in Item 9 of the Agenda 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 Orders**

Note: A transcript of this item is available by contacting Esther Schwartz, Capitol Reporters

Chairman Clarke read an opening statement outlining the procedures to be followed and the functions of Water Board staff.

**Advisory Team**

David Coupe, Attorney with the State Water Board's Office of Chief Counsel  
Harold Singer, Executive Officer

**Prosecution Team**

Chuck Curtis, Supervising Water Resources Control Engineer  
Scott Ferguson, Senior Water Resources Control Engineer  
Taylor Zentner, Environmental Scientist  
David Boyers, Attorney with the State Water Board's Office of Enforcement.

**Designated Parties**

Prosecution Team  
Parties listed in Item 9 in the meeting agenda

Mr. Coupe noted the Board received a letter by fax on October 9, 2009 from Mitchell and Ginger Naylor. Mr. Coupe recommended the letter not be admitted into the record because it contained evidence and therefore was not in compliance with the hearing procedures. Chairman Clarke concurred with Mr. Coupe's recommendation and the letter was not allowed into the record.

Mr. Singer summarized information presented to the hearing panel at the September 15, 2009 public hearing. Mr. Singer noted the hearing panel recommended the full Board adopt the cease and desist orders as proposed with a compliance date of December 31, 2009, and that the Board consider its



enforcement discretion. Mr. Singer noted the prosecution team informed the advisory team that the following individuals had either connected to the system or no longer own the property and suggested the Board not adopt cease and desist orders for the parties listed below:

Property Owner	APN	1991 CDO to be rescinded
Coleman, Ronald and Stephanie	077-213-13-11	6-91-325
Macias, Raymond and Marjorie A.	077-172-16-11	6-91-568
Stebbins, Loretta	077-232-43-11	6-91-831
Walker, Rudolph Soyka and Rebecca JT	077-251-40-11	6-91-899
Davis, Patricia Candis c/o Ember A. Davis	077-223-23-11	N/A
Johnston Family Trust	077-352-19-11	N/A
Matthias, Paul L. and Donna JT	077-161-20-11	N/A
McMillen Tanya L. and Jerry L.	077-254-29-11	N/A
Neely, Tom F. and Becky and Neely, Darin R. and Yvette JT	077-304-57-11	N/A
Sievers, William A. and Jeanette	077-353-25-11	N/A
Walker, Rudolph Soyka and Rebecca JT	077-274-25-11	N/A
Wilson, Kenneth Jr. and Valeri	077-412-17-11	N/A

There being no further testimony, Chairman Clarke closed the public hearing.

- **Motion:** Moved by Dr. Horne and seconded by Mr. Sandel to issue the proposed cease and desist orders with the exception of those named by Mr. Singer who have connected to the system or no longer own the property. A roll call vote was taken. Voting yes: Mr. Charlton, Mr. Dispenza, Dr. Horne, Mr. Jardine, Mr. Sandel and Mr. Clarke. Voting no: None. **Motion passed unanimously.**

## **OTHER BUSINESS**

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

Mr. Singer discussed items from the October 2009 written report and answered questions from the Board.

Mr. Singer discussed the Board's budget and the functions, activities, expectations and priorities of the Regional Board. Mr. Singer, Ms. Kemper and Mr. Curtis, with prior input from Mr. Plaziak, discussed the Board's accomplishments.

Note: The evening meeting recessed at 10:00 p.m.



**Regular Meeting, continued**  
**October 15, 2009 – 8:30 a.m.**

Mr. Clarke called the meeting to order at 8:30 a.m.

Board members present: James W. M. Charlton, Jack Clarke, Mike Dispenza, Amy Horne, Don Jardine, and Eric Sandel. Board member absent: Keith Dyas.

**PLANS AND POLICIES**

**10. Public Hearing – 2009 Triennial Review of the Water Quality Control Plan for the Lahontan Region (Basin Plan)**

Chairman Clarke opened the public hearing.

Dr. Unsicker gave the staff presentation, answered questions from the Board and recommended the Board adopt the Resolution as proposed.

Addressing the Board: Mike Sullivan, Los Angeles County Sanitation Districts.

There being no further testimony, Chairman Clarke closed the public hearing.

Dr. Horne complimented staff on preparing the list of priorities and responding to public comments. Mr. Clarke noted staff resources would be the biggest issue and that priorities could change with time.

- **Motion:** Moved by Dr. Horne, seconded by Mr. Dispenza and **unanimously carried** to adopt the Resolution as proposed.

**OTHER BUSINESS**

**11. Reports by Chair and Board Members**

Mr. Jardine commented that he gave a presentation in Carson City on October 10 about mining activities in Alpine County.

Dr. Horne thanked Mr. Clarke and Board staff for making it possible for her to attend the Northern California Tour sponsored by the Water Education Foundation.

Mr. Charlton discussed the downside to term limits and the need to have members with institutional memory on the Board.

Mr. Clarke discussed topics covered at the October 5 Chair's conference call.

Board members discussed the draft 2010 Board meeting schedule.

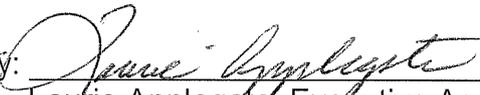


Board members watched a DVD produced by the Nevada Division of Environmental Protection with the collaboration of Lahontan staff entitled Charting the Course to Clarity. Following the showing of the DVD, Ms. Kemper handed out a survey provided by the State of Nevada for Board input.

Mr. Clarke asked Mr. Singer to give his compliments to Board staff on a job well done for work performed prior to the Board meeting on the Spalding and Tahoe Tom items.

**ADJOURNMENT**

With no further business to come before the Board, the meeting adjourned at 9:40 p.m. on October 15, 2009.

Prepared by:  Adopted: December 9, 2009  
Laurie Applegate, Executive Assistant

