CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

CEASE AND DESIST ORDER NO. R6T-2011-(PROPOSED)

REQUIRING TODD, DENNIS E & ANDREA D, 077-271-15-11 TO CEASE AND DESIST FROM DISCHARGING OR THREATENING TO DISCHARGE WASTE IN VIOLATION OF A 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. TODD, DENNIS E & ANDREA D, (hereafter "Discharger") own(s) Assessor Parcel No. 077-271-15-11 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 incorporate the following waste discharge prohibition.

   "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.)

   This prohibition essentially prohibits the discharge of sewage to individual on-site waste disposal systems in the Spalding Tract after September 14, 1989.

PROPOSED

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.

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 October 14, 2009, the Water Board adopted 74 Cease and Desist Orders for property owners who continued to discharge or threaten to discharge waste in violation of the Basin Plan prohibition. Cease and Desist Orders were only adopted for property owners where the Water Board provided evidence that: (1) an on-site wastewater disposal system was present on the owner's property, and (2) the on-site wastewater disposal system had not been connected to the District's system or properly abandoned. These Cease and Desist Orders require property owners to either connect their on-site wastewater disposal systems to the District's system or properly abandon them by December 31, 2009. Dischargers are also required to provide the Water Board with written documentation verifying compliance with the Basin Plan prohibition by January 15, 2010.

8. There are additional property owners that have yet to comply with the Basin Plan prohibition and did not receive a Cease and Desist Order in 2009. The Discharger identified in Finding No. 1, above, is such a property owner.

9. Lassen County records (Attachment B of this Order) provide evidence that the Discharger has an on-site wastewater disposal system located on the parcel referenced in Finding No. 1, above. Additionally, District records (Attachment C of this Order) indicate that the Discharger has not connected its on-site wastewater disposal system to the District system. The Water Board has also not received any written documentation from Lassen County verifying 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.

PROPOSED

10. 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 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."

11. As noted in Finding No. 9, 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.

12. The Water Board is issuing new Cease and Desist Orders to all Spalding Tract property owners that (1) have an on-site wastewater disposal system, (2) have either failed to connect their on-site wastewater disposal system to the District's system or properly abandoned it, and (3) were not issued a Cease and Desist Order in 2009. The Discharger is such a property owner as identified in Finding Nos. 8 and 9, above. The new Cease and Desist Orders reflect current property ownership, the availability of the District's system as a means of compliance, and establish a new compliance schedule.

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."

PROPOSED

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, subdivision (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 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 **November 10, 2011**, 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. 077-271-15-11.

PROPOSED

2. By **November 28, 2011**, the Discharger must complete one of the following:

   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 Water Board must be copied on the written request. 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 Water Board must be copied on the written request. 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 D 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.

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 E – 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,

PROPOSED

or referral to the Attorney General of the State of California for such legal action as he may deem appropriate.

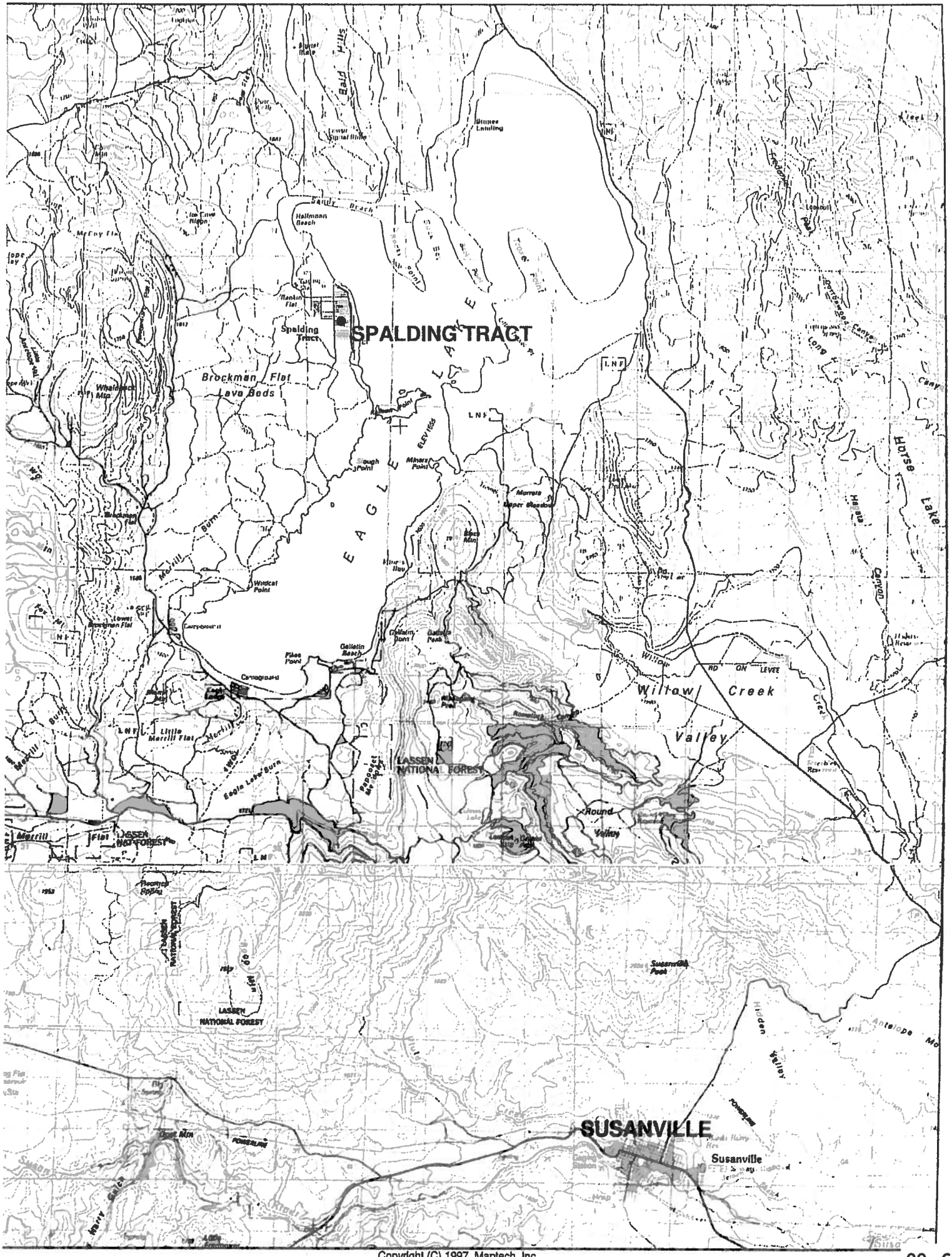
I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region on September 14, 2011.

_____
HAROLD J. SINGER
EXECUTIVE OFFICER

Attachment A: Vicinity Map
Attachment B: Lassen County Records for Lassen County Assessor Parcel No. 077-271-15-11
Attachment C: District Records
Attachment D: Technical Report Form – No On-site Waste Disposal Certification
Attachment E: Water Code section 13267 Fact Sheet

PROPOSED

ATTACHMENT A



Copyright (C) 1997, Maptech, Inc.

ATTACHMENT B

Spalding Community Service District

502-907 Mahogany Way • Susanville, CA 96130
Phone: 530-825-3258 • Fax: 530-825-3264
Web Site: http://www.spaldingcsd.org

RECEIVED
JUN 05 2009
By TBZ

June 4, 2009

Taylor Zentner
Environmental Scientist
Enforcement and Special Projects Unit
Lahontan Regional Water Quality Control Board

Dear Mr. Singer:

As requested in your email of June 4, 2009, the property described below is still disconnected from the District Sewer system due to failure to pay the Operations and Maintenance Fees.

Dennis E/Andrea D Todd
PO Box 265
Tulelake, CA 93134
APN# - 077-271-15
Spalding property Address: 687-700 Cedar Way

I hope this is the information you require. If you have any questions, please feel free to contact this office.

Sincerely,

Leni Vaughn
Administrative Assistant
Cc: Taylor Zentner

Spalding Community Service District

502-907 Mahogany Way

Susanville, CA 96130

Phone: 530-825-3258

Fax: 530-825-3264

January 14, 2009

Harold J. Singer
Executive Officer
California Regional Water Quality Control Board
Lahontan Region

Dear Mr. Singer:

This is to inform you that the Spalding Community Service District has shut off sewer service to the following resident for failure to pay the Operations and Maintenance Fees.

Dennis E/Andrea D Todd
PO Box 265
Tulelake, CA 93134
APN# - 077-271-15
Spalding property Address: 687-700 Cedar Way

The original date of hookup was November 2, 2007. The District has made several attempts to contact Mr. Todd regarding his account and as of this date we have received no response from him. We will notify your office should Mr. Todd bring his account up to date and his service is restored.

If you have any questions, please feel free to contact this office.

Sincerely,

Leni Vaughn
Administrative Assistant
Cc: Taylor Zentner

SPALDING COMMUNITY SERVICES DISTRICT
SEWER CONNECTION PERMIT APPLICATION

RECEIVED
NOV 06 2007
Lassen County
Department of Community Development

ASSESSMENT NO 469
PERMIT NO 000282

APPLICANT COMPLETES

Inspection Requests:	(530) 825-0004 9AM to 11AM Monday-Thur	
OWNER: Dennis Todd		TELEPHONE NO:
SERVICE ADDRESS		
MAILING ADDRESS: PO Box 265 Tulelake Ca 96134		
CONTRACTOR: Mass Plumbing		LICENSE NO: 391154
MAILING ADDRESS: PO Box 119 Nubieber Ca 96068		TELEPHONE NO: 964-3193

FEES $180.00 Paid 120 Fee Paid

Assessor's Parcel # (APN): [illegible] Type of Work: ☒ Tank ☒ Lateral ☐ Other

Existing Improvements: ☒ House ☒ Septic ☒ Well ☐ None

Type of House: ☒ Site Built ☐ Mobile ☐ Manufactured Home Bldg Site Designation #: 558-371

APPLICANT COMPLETES

EXPIRATION: Every permit issued by the Utility District official under the provisions of the code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one year from the date of such permit, or if any time after work is suspended or abandoned for a period of one year. Work shall be considered "abandoned" or "not commenced" if the project has not had one of the inspections required by the most current edition of the California Building Code approved within any 12 month period. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit which has expired or become of one year, the permittee shall pay a new full permit fee.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence or continue work within the one year period. The District may extend the time for action by the permittee for a period not exceeding one year on written request by the applicant made prior to the expiration of the permit. No permit shall be extended more than once.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with, whether specified or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other State or Local Law regulating construction or the performance of construction.

I/We agree to save, indemnify, and keep harmless the Spalding Community Services District or its agents against liabilities, judgments, costs and expenses which may in any way accrue against said District.

Date: _____

Signature of Applicant: Dennis Todd

OWNER/CONTRACTOR COMPLETES

☒ I am a State Licensed Contractor, Lic. No.: 391154 Lic. Class: C-36 ☐

and submitted and claim exemption from the Contractors Law for the following reason: _____

☐ I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale.

☐ I, as owner of the property, am exclusively contracting with licensed contractors to construct the project.

I am exempt under Section _____, B & P.C. for this reason: _____

(Owner, contractor or authorized agent)

IN COMPLIANCE WITH SECTION 3097, LABOR CODE, STATE of CALIFORNIA:

☒ "I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workmen's Compensation Laws of the State of California."

☐ "I am hereby filing a Certificate of Workmen's Compensation Insurance, issued by an admitted insurer, or a Certificate of Consent to Self-Insure, issued by the Director of Public Industries."

HUMAN'S COMPENSATION POLICY/APPLICATION

Insurance Carrier: _____ Expiration Date: _____

(DATE OF EXPIRATION MUST BE GREATER THAN ABOVE)

I hereby make application for permit to complete the work as proposed herein and described in accompanying plans, drawings and specifications which are made a part thereof. It is understood that this application is also made subject to all provisions of Federal, State and County Ordinances applicable thereto.

Signature of Owner or Authorized Agent: [signature] Date: 8-2-07

DATE: _____ TIME: _____ Lassen County to Return to District within 5 days.

Office Use Only

LASSEN COUNTY PLANNING DIVISION

"A BUILDING SITE DESIGNATION MUST BE COMPLETED AND RECORDED BEFORE A BUILDING PERMIT WILL BE ISSUED."

RECORDS RETURNED TO: BOOK 665 PAGE 687 YEAR 16 DOC.# _____ INITIAL MT

ZONING: R-1-D BUILDING SITE DESIGNATION #: 558-371

INCIDENTAL SEPTIC TANK/SEWER AGREEMENT:

DATE RET'D _____ INITIAL _____

DATE: 11-7-07 SIGNATURE: [signature]

Accepted by Lassen County: Mark Howard FOR: MCA Date: 11-7-07

Permit Issued 11-9-07 Authorized District Official: Vera A Hitsman

09-624

ylor Zentner - Dennis & Andrea Todd Dwelling - Spalding, Eagle Lake APN 077-271-15

om: "Doug Ames" <DAmes@co.lassen.ca.us>
o: "Taylor Zentner" <TZentner@waterboards.ca.gov>
te: 6/17/2009 4:48 PM
bject: Dennis & Andrea Todd Dwelling - Spalding, Eagle Lake APN 077-271-15
tachments: IMG_0716.JPG; IMG_0717.JPG; IMG_0718.JPG; IMG_0719.JPG; IMG_0720.JPG; IMG_0721.JPG

/lor,

spected the Todd property at Spalding, Eagle Lake, on Monday, 6/15/09. No one was home at the time, but according to Meryl / of the Eagle Lake CSD, the Todds are living on the property at this time.

you know, the Todd property was disconnected from the Spalding CSD sewer system several months ago.

the time I inspected the property I didn't find any sewage or graywater on the surface of the ground. I did note, however, that the privy (outhouse) on the property was being used as a toilet facility. Please see the attached photos.

oto 0716 shows the privy in use. Photo 0717shows a fresh roll of toilet paper in the privy. Photo 0718 shows the privy (out of :us somehow...sorry). The toilet in photo 0719 is set in front of the septic tank over where it should connect to the Spalding sewer stem (maybe their form of protest against the sewer district). Photo 0720 – same. Photo 0721 shows the location of the pit privy the right of the flag) to the left of the mobilehome and toward the back of the property.

e only address listed in the county records is: Dennis and Andrea Todd, P.O. Box 265, Tulelake, Ca 96134-0265.

ease let me know if you need anything else.

ıug

re: Spalding Tract, 077-271-15-11, Todd/Dennis & Andrea

09-626

09-627

09-628

09-629

09-630

09-631

ATTACHMENT C

ATTACHMENT D

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.

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

ATTACHMENT E

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[1] 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 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.

[1] All code sections referenced herein can be found by going to www.leginfo.ca.gov. Copies of the regulations cited are available from the Regional Board upon request.