

ENCLOSURE 8

**Proposed Order Approving a Settlement of
Administrative Civil Liability Complaint No.
R6T-2005-0029**

10-0097

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

ORDER NO. R6T-2006-(PROPOSED)

**APPROVING A SETTLEMENT OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R6T-2005-0029,
PROPOSED BY THE DISCHARGERS
C. GEOFFREY AND CHRISTINE DAVIS, HANS AND MARGARET COFFENG, AND
PACIFIC BUILT, INC.
FOR VIOLATION OF WASTE DISCHARGE PROHIBITIONS PRESCRIBED IN THE
WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION,
FOR THE UNAUTHORIZED DISCHARGE OF UNTREATED DOMESTIC
WASTEWATER TO LANDS BELOW THE HIGH-WATER RIM OF LAKE TAHOE ON
JULY 19, 2005 AT
7770 AND 7780 NORTH LAKE BOULEVARD, KINGS BEACH,
PLACER COUNTY ASSESSOR'S PARCEL NUMBERS 117-180-017 AND -018,
WDID NO. 6A310408003**

Pursuant to California Water Code (Water Code) Sections 13323 and 13350 and California Government Code Section 11415.60, the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. The Water Board has been presented with a proposal to settle Administrative Civil Liability Complaint No. R6T-2005-0029¹ (See Attachment I, which is made a part of this Order), negotiated between the Water Board's prosecution staff; and C. Geoffrey and Christine Davis, Hans and Margaret Coffeng, and Pacific Built, Inc. (hereafter collectively referred to as the "Dischargers"); and
2. The Settlement Proposal would resolve both the above-referenced complaint and litigation between the Dischargers and the North Tahoe Public Utility District (NTPUD); and
3. The Settlement Proposal states that the Dischargers must pay \$26,840.00 to the Waste Discharge Permit Fund by November 13, 2006. In addition, the Dischargers must pay \$298,160.00 by November 13, 2006 to the NTPUD for the purchase of a portable sewer bypass hose reel system, as specified in the Settlement Proposal (Attachment II, which is made a part of this Order) as a Supplemental Environmental Project (SEP).
4. The Dischargers have provided adequate assurance to the Water Board that they will make the above-referenced payments by November 13, 2006.

¹ The Water Board's Assistant Executive Officer reduced the recommended amount of administrative civil liability during the Water Board's May 11, 2006 public hearing from \$700,000 to \$325,000 due to a correction in the discharge volume.

5. The NTPUD has provided adequate assurance to the Water Board that: 1) the NTPUD is committed to ordering the specified portable sewer bypass hose reel system within 30 days of receiving payment from the Dischargers, 2) the equipment will be delivered to the NTPUD within 120 days of placing the order, 3) the NTPUD is committed to providing training for all necessary personnel (NTPUD staff and staffs of the sewer collection entities in the Lake Tahoe and Truckee area that are part of the regional mutual aid agreement) within 45 days of NTPUD's receipt of the equipment, 4) the NTPUD is committed to making the portable sewer bypass hose reel system available only for emergency use by all of the sewer collection entities within the Lake Tahoe and Truckee area that are part of the regional mutual aid agreement, and 5) the NTPUD will maintain the system in good working order and in a manner that ensures its availability for emergency responses (see Attachment III, which is made a part of this Order); and
6. The SEP meets the criteria established by the State Water Resources Control Board (State Board) in its *Water Quality Enforcement Policy*, dated February 19, 2002; and
7. The Water Board desires to conclude all existing disputes between the Dischargers and the Water Board; and
8. This action to adopt an Order approving the Settlement Proposal which resolves the ACL Complaint is exempt from the provisions of the California Environmental Quality Act, in accordance with Title 14, California Code of Regulations (CCR) (Enforcement Actions by Regulatory Agencies), Section 15321(a)(2); and
9. Any aggrieved person may petition the State Board to review the action in accordance with Water Code section 13320 and the State Board's regulations. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at http://www.swrcb.ca.gov/water_laws/cawtrcde/wqpetition_instr.html and will also be provided upon request.

IT IS HEREBY ORDERED THAT:

1. The California Regional Water Quality Control Board, Lahontan Region hereby approves the Settlement Proposal.
2. The Dischargers must provide payment in full to both the Waste Discharge Permit Fund and to the NTPUD in the specified amounts by **November 13, 2006**. If the payments are not timely made, the Dischargers must pay \$325,000 to the Waste Discharge Permit Fund by **December 13, 2006**.

3. This case will be referred to the offices of the California Attorney General for collection of \$325,000 if the Dischargers fail to make payment of \$26,840 to the Waste Discharge Permit Fund and of \$298,160 to the NTPUD by **November 13, 2006**, and then subsequently fail to make payment of \$325,000 to the Waste Discharge Permit Fund by **December 13, 2006**.
4. The Water Board's Executive Officer is authorized to extend the compliance dates above if the Executive Officer determines that events beyond the control of the Dischargers prevented them from satisfying any obligation as required by Order No. 2 above, despite the Dischargers' best efforts to fulfill the obligation. In the event that such a situation develops, the Dischargers must submit to the Executive Officer a written notice providing an description of the event they believe has or will prevent them from satisfying any obligation pursuant to Order No. 2 above, an explanation of how the event has or will cause the delay, the anticipated duration of the delay, and a description of all actions the Dischargers have taken or will take to prevent or minimize the delay and a schedule of such actions. The written description must be submitted within 21 days of identifying the event, or within 5 days of becoming past due of the relevant compliance date specified in Order No. 2 above, whichever is shorter.

Within 21 days of receiving such a notice, the Executive Officer must notify the Dischargers in writing if the Executive Officer agrees or disagrees with the Dischargers' assertions regarding the event's effect upon the Dischargers' ability to meet their obligations pursuant to Order No. 2 above. If the Executive Officer agrees with the Dischargers' assertions, the Executive Officer will provide the revised compliance dates in the above-referenced notification. If the Executive Officer disagrees with the Dischargers' assertions, the Executive Officer will provide the reasons for denying an extension of the compliance dates in the above-referenced notification.

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 11, 2006.

HAROLD J. SINGER,
EXECUTIVE OFFICER

