



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
*Acting Secretary for
Environmental Protection*

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Edmund G. Brown Jr.
Governor

February 28, 2011

Harold J. Singer, Executive Officer
Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

**TRANSMITTAL OF LAHONTAN WATER BOARD PROSECUTION TEAM'S
WRITTEN REBUTTAL EVIDENCE AND TESTIMONY FOR CONSIDERATION OF
ISSUANCE OF A CEASE AND DESIST ORDER TO THE UNITED STATES FOREST
SERVICE, LASSEN NATIONAL FOREST, EAGLE LAKE WASTEWATER FACILITY,
EAGLE LAKE BASIN, LASSEN COUNTY (WDID NO. 6A188505700)**

Pursuant to the December 28, 2010 Hearing Procedures, I am submitting one original, 15 copies, and an electronic copy of the Lahontan Water Board Prosecution Team's written rebuttal evidence and testimony to you for the above-referenced case. I am also sending single copies of the same materials to Chuck Curtis, David Boyers, Kimberly Niemeyer, and Jerry Bird. A copy of these materials is also available on the Lahontan Water Board's web site at: www.waterboards.ca.gov/lahontan.

Please contact me at (530) 542-5436 if you have any questions regarding this matter.

Lauri Kemper, P.E.
Assistant Executive Officer

Enclosure

cc (w/enclosure): David Boyers, SWRCB, Office of Enforcement
Kimberly Niemeyer, SWRCB, Office of Chief Counsel
Chuck Curtis, Lahontan Water Board
Jerry Bird, Lassen National Forest
John Cunningham, Lassen National Forest
Val Aubry

California Environmental Protection Agency

cc (w/o enclosure): Jack Walton, Lassen National Forest
Heather Blevins, Lassen National Forest
Lloyd Keefer, Lassen County Board of Supervisors
Robert Pyle, Lassen County Board of Supervisors-District 1
Alan Jones, Lassen County Environmental Health Department
Mike O'Kelly, Lassen College Foundation, Inc.
Chris Gallagher, Spalding Community Services District
Scott Roloff
Martin Balding, Stones Bengard Community Services District
Scott McCollough, Lassen Cougar Enterprises, Inc.

SCF/adw: T/Agenda Items/2011/4-April/USFS Lassen National Forest CDO/Prosecution Team Evidentiary Materials/Eagle Lake Wastewater Facility/Eagle Lake Wastewater Facility-Rebuttal Package-Cover Letter (2-25-2011)
File Under: WDID No. 6A188505700.



**REGIONAL WATER QUALITY CONTROL BOARD, LAHONTAN REGION
PUBLIC HEARING SCHEDULED FOR APRIL 13-14, 2011**

**TRANSMITTAL OF REBUTTAL EVIDENCE AND TESTIMONY FOR
CONSIDERATION OF A CEASE AND DESIST ORDER**

TO

**THE UNITED STATES FOREST SERVICE
LASSEN NATIONAL FOREST EAGLE LAKE WASTEWATER FACILITY
EAGLE LAKE BASIN
LASSEN COUNTY**

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SECTION I
LIST OF EXHIBITS

LIST OF EXHIBITS

Exhibit Number	Description of the Exhibit
1	USFS Letter, dated February 16, 2011, Response to Proposed Cease and Desist Order No. R6T-2011-(Proposed) dated January 12, 2011
2	Water Board Letter, dated February 28, 2011, Response to USFS February 16, 2011 Letter

SECTION II

EXHIBITS

EXHIBIT NO. 1

File Code: 7430/2300

Date: February 16, 2011

Scott C. Ferguson
Chief, Enforcement and Special Projects Unit
California Regional Water Control Board, Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

FEB 17 2011

SCF

Re: Cease and Desist Order No. R6T-2011 (Proposed) for the Eagle Lake Wastewater Facility, WDID No. 6A188505700

Dear Mr. Ferguson:

The Forest Service does not have substantive comments for the revised Cease and Desist Order No. R6T-2011 (Proposed) dated January 12, 2011, (proposed order). The proposed order includes a series of deadlines for deliverables from the Forest Service including schedules and reports. However, critical to the Forest Service's ability to meet the December 2012 deadline in the proposed order is the necessity for a timely review and response from the Regional Board staff of Forest Service deliverables.

Because the Forest Service has already initiated work that is described in the Waste Discharge Requirements, Board Order R6T-2010-0056, (WDR) including the submission of reports to the Regional Board staff related to that work, Regional Board staff is aware of the Forest Service's commitment to meeting the deadlines in the proposed order. To that end, the Forest Service has issued a design-build construction contract in the amount of \$4,883,000. The expiration date of this construction contract is December 30, 2012, which is consistent with the deadline in the proposed order.

The Forest Service has obligated sufficient appropriated funds as evidenced by the issuance of the \$4,833,000 construction contract, to come into compliance in accordance with the proposed order. However, when this construction contract terminates in December 2012, if the project has been delayed and is not completed, the Forest Service would have to seek new project funding, which is, in turn, dependent upon Congressional appropriations. The Forest Service is prohibited by federal law from expending funds in a manner that is not in accordance with Congressional appropriations. 16 U.S.C. §§1341 et seq.

In order to meet the December 2012 deadline, the schedule of work provided by the Forest Service's contractor requires the contractor to begin construction by June 1, 2011. It is critical to keep the timing of the construction project on track by utilizing both the 2011 and 2012 construction seasons. Any delays will have significant time impacts on the construction schedule, and the Forest Service may not have future funds available to complete the work.

A crucial component of keeping the timing of this project on track is the Regional Board staff's timely, and if necessary, expedited review and comment on the deliverables in the proposed order and the WDR. The following table summarizes some of the critical submittals and timeframes:



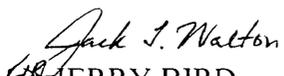
Item	Review Period	Comment
Engineering Design Report	180 days prior to construction	Draft submitted 11/16/10. Contractor preparing addendum in response to Lahontan comments.
Detection Monitoring Program	120 days prior to construction	
Sampling and Analysis Plan	120 days prior to construction	
Final Construction Quality Assurance Report	30 days prior to use of a surface impoundment	To be submitted during each construction season to allow use of new ponds as soon as completed
Sludge Management Plan		Due March 30, 2011

The Forest Service appreciates the cooperation of the Regional Board staff in responding to our questions, clarifying requirements, and describing procedures to us as we go through this process. Our intent is to continue to consult and coordinate with you during project development. We would like feedback from you and assurance that you will continue to work with us and commit to timely, and if necessary, expedited review and comment of Forest Service deliverables in the proposed order and WDR. For example, the Forest Service anticipates submitting the final construction package to Regional Board staff by the end of February. The Forest Service would need any comments from you by April 1, in order to make any changes in response to comments to ensure construction begins by June 1.

If Regional Board staff anticipates any problems in providing timely review, the Forest Service would like to discuss with you whether it is possible to make additional revisions to the proposed order, such as reducing the number of deliverables, or discuss other options to ensure timely completion of the construction project by December 2012.

Please contact Heather Blevins, Assistant Forest Engineer, at the number listed above, if you would like to discuss the Forest Service's comments or any additional changes to the proposed order.

Sincerely,


 JERRY BIRD
 Forest Supervisor

cc: Jack Walton, Ann D Carlson, Sherry Mitchell-Bruker, Chris J Obrien, John W Cunningham

EXHIBIT NO. 2



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

February 28, 2011

Jerry Bird, Forest Supervisor
Lassen National Forest
2550 Riverside Road
Susanville, CA 96130

PROPOSED CEASE AND DESIST ORDER NO. R6T-2011-(PROPOSED) FOR THE EAGLE LAKE WASTEWATER FACILITY, W DID NO. 6A188505700

Thank you for submitting your February 16, 2011 letter in which you state that the Forest Service does not have any substantive comments regarding proposed Cease and Desist Order No. R6T-2011-(PROPOSED), dated January 12, 2011. In this letter you also inform Water Board staff that the Forest Service's compliance with the deadlines and deliverables specified by the proposed Cease and Desist Order is dependent, in part, upon the Water Board's timely, and potentially expedited, review of and response to documents submitted by the Forest Service. The Forest Service documents requiring such review/response are identified in waste discharge requirements for the Eagle Lake Wastewater Facility and the proposed Cease and Desist Order. You requested feedback regarding Water Board staff's ability to provide such reviews/responses.

I have provided your February 16, 2011 letter to Water Board staff that will be reviewing and responding to the Forest Service documents you reference in your letter. Based upon the example of timely review/response provided in your letter, Water Board staff is confident that it will be able to provide such timely reviews/responses. Water Board staff is equally interested in the Forest Service being able to complete the facility upgrades and the groundwater investigation in compliance with the schedule set forth in the proposed Cease and Desist Order.

Thank you for your continued efforts to return the Eagle Lake Wastewater Facility to compliance with its waste discharge requirements. If you have any questions regarding this matter, please contact Taylor Zentner at (530) 542-5469 or me at (530) 542-5432.

Scott C. Ferguson, P.E.
Senior Water Resource Control Engineer
Enforcement and Special Projects Unit

California Environmental Protection Agency



Cc: John Cunningham/Lassen National Forest (email only)
Jack Walton/Lassen National Forest (email only)
Heather Blevins/Lassen National Forest (email only)
Lloyd Keefer/Lassen County Board of Supervisors
Robert Pyle/Lassen County Board of Supervisors
Alan Jones/Lassen County Environmental Health Department
Mike O'Kelly/Lassen College Foundation
Chris Gallagher/Spalding Community Services District
Scott Roloff
Val Aubrey
Martin Balding/Stones Bendgard Community Services District
Scott McCollough/Lassen Cougar Enterprise
David Boyers/State Water Resources Control Board, Office of Enforcement
(email only)
Kimberly Niemeyer/State Water Resources Control Board, Office of Chief
Counsel (email only)
Harold J. Singer/Lahontan Regional Water Quality Control Board (email only)
Lauri Kemper/Lahontan Regional Water Quality Control Board (email only)
Chuck Curtis/Lahontan Regional Water Quality Control Board (email only)
Taylor Zentner/Lahontan Regional Water Quality Control Board (email only)
Rob Tucker/Lahontan Regional Water Quality Control Board (email only)
Alan Miller/Lahontan Regional Water Quality Control Board (email only)

SCF/adw/T/ Eagle Lake Wastewater Facility-WB Response to USFS 2-16-11 Letter
File Under: WDID No. 6A188505700