

Lahontan Regional Water Quality Control Board

July 12, 2013

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RESPONSE TO COMMENTS, DRAFT CLEANUP AND ABATEMENT ORDER NO. R6V-2013-DRAFT, ARIMOL GROUP, INC. AND MEADOWBROOK CEDAR, INC., LAKE ARROWHEAD, SAN BERNARDINO COUNTY, WDID NO. 6B36C363433

Thank you for providing your comments in response to the above-referenced draft Cleanup and Abatement Order. At the outset I would like to note that the legal basis for the Order is located in the Order itself under the section titled "Regulatory Authority." In addition, none of your comments provided the Lahontan Water Board with any substantive discussion as to why your client objected to any portion of the Order.

In response to comment 1, the requirement regarding a conservation easement has been removed. However, your client or any other party proposing to discharge waste, dredged, and/or fill materials to waters (surface waters and/or ground waters) within California are required to obtain all necessary permits, prior to discharging such materials. This requirement applies to the surface waters the Order requires your client to restore to pre-project conditions. Additionally, the surface water resources and their functions restored/created as compensatory mitigation for temporal and permanent impacts to surface waters are to be provided in perpetuity. The proposed Order reflects such conditions.

In response to comment 2, the Lahontan Water Board's authority is found in Water Code section 13304 and State Water Resources Control Board Resolution No. 92-49. The compensatory mitigation ratios set forth in the Order are not punitive, but rather compensate for impacts to beneficial uses resulting from your client's activities at the three parcels referenced in the Order. At the meeting held with your client on June 14, 2013, your client expressed interest in complying with the compensatory mitigation ratios set forth in the Order by engaging in off-site mitigation. Such mitigation is within the discretion of the Lahontan Water Board and the Prosecution Team. The Prosecution Team agreed to such mitigation, but only if it was provided in a plan prior to mitigation. The Order merely reflects the off-site option provided to your client. The Prosecution Team believes this will assist your client in moving forward with his operations at the site. However, we have incorporated your concern into the proposed Order.

With respect to comment 3, the annual technical reporting is required pursuant to Water Code section 13267, as are all of the Order's reporting requirements. The reporting will not be required in perpetuity, but we cannot provide a firm date at this time. The proposed Order clarifies that the annual technical reports are required until the final success criteria for restoration and mitigation activities are satisfied.

Finally, the Lahontan Water Board is entitled to cost recovery as set forth in the Order under Water Code section 13304. This includes overseeing cleanup of unauthorized discharges of wastes, abatement of the effects thereof, and/or remedial work set forth in the Order, which includes, but is not limited to, site inspections, and reviewing and commenting upon technical reports required pursuant to Water Code section 13267.

As set forth above, the majority of legal authority you requested is found in the Order or on the State Water Board's website. I renew my suggestion that you use the materials and resources found on the State Water Board's website, which includes a copy of relevant legal authority/code, to enhance your understanding of the legal authority cited in the Order.

Attached is a track changes version of the proposed Order, identifying the changes Lahontan Water Board staff has made to the draft Order in response to your comments, comments received from the California Department of Fish and Wildlife, and additional staff review. Please review the proposed Order and provide any additional comments or questions you may have by **July 26, 2013, 5:00 p.m.** The proposed Order without track-changes is being provided to the Lahontan Water Board's Advisory Team and interested parties. Comments from these parties will also be due by **July 26, 2013, 5:00 p.m.**



Lauri Kemper, P.E.
Assistant Executive Officer

Attachment: Proposed Cleanup and Abatement Order (Track Changes)

Cc (w/attachment): Bill Moller, Arimol Group, Inc.
Bill Moller, Meadowbrook Cedar, Inc.
Dale Schneeberger, The Sanberg Group, Inc.
Bruce Eilerts, The Sanberg Group, Inc.
Joanna Gibson, California Dept. of Fish and Wildlife
Anna Kathryn Benedict, State Water Resources Control Board -
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