



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

262.0(31-18-02)
SURNAME FILES

Division of Water Rights

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Arnold Schwarzenegger
Governor

In Reply Refer to:
CEN:262.0(31-18-02)

MAR 11 2008

Rod Baydaline
Stein and Baydaline LLP
895 University Avenue
Sacramento, CA 95825

Karen Sutherland
Hidden Lakes Homeowners Association
8340 Auburn Boulevard, Suite 100
Citrus Heights, CA 95610

Dear Mr. Baydaline and Ms. Sutherland:

WATER RIGHT COMPLAINT REGARDING ALLEGED WASTE AND UNREASONABLE USE OF STORED WATER AT THE HIDDEN LAKES SUBDIVISION IN PLACER COUNTY

By letter dated July 13, 2006, State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff (Staff) reported the results of the subject complaint investigation. Staff concluded that there is substantial evidence in the complaint record to support that water is seeping from the northern lake onto the Wood and Allegra properties. This seepage serves no beneficial use and has caused, and is causing, damage to these properties. Staff also concluded that seepage has likely devalued the Wood and Allegra properties and as such the seepage of water from the north lake constitutes a misuse of water.

By letter dated August 15, 2006, legal counsel for the Hidden Lakes Homeowners Association (Association) stated in response to the report of investigation that more testing is needed to conclusively determine the origin of the water. By letter dated September 18, 2006, the Division Chief re-iterated Staff's findings and requested that, in accordance with California Code of Regulations, title 23, section 857, the Association implement the additional studies by January 31, 2007 and demonstrate that the Association has either permanently corrected a misuse of water, or is not misusing water.

The Association hired two consultants to conduct the additional studies. The first study was a geophysical survey of the north lake dam to detect areas of potential leakage. The results of this study are contained in a report dated February 28, 2007 and these results indicate that seepage is occurring in certain areas of the dam. The second study, conducted by a different consultant, was a follow-up study to confirm the potential areas of seepage and consisted of the installation of four piezometers within the north dam.

The results of the second study are contained in a report dated May 28, 2007. These results indicate that:

1. Seepage is occurring through the north dam, mainly at the interface between the granite bedrock surface and the bottom of the embankment/soil portion of the foundation. Additional seepage is occurring within a former drainage swale, now covered by the dam, between the Wood and Allegra properties.
2. The dam was not constructed in accordance with as-built drawings. The actual compaction of the dam materials was 90 to 91% rather than 95% as indicated in the as-built drawings. The original soil that was part of the pre-existing drainage swale was not removed as part of the foundation preparation prior to construction of the embankment.

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3. The dimensions and slope inclinations of the north dam appear to be quite different from those identified in the as-built drawing. Specifically, the crest appears to be wider, the slopes flatter, and the dam height lower than is indicated in the as-built drawing. The overall depth of the north (upper) pond has been found to be considerably less than the depth of 17 feet shown on the as-built drawing.
4. If the dam embankment had been completely stripped of unsuitable materials, and the bottom of the embankment keyed several feet into firm rock, the seepage at the embankment/foundation would probably be much less.
5. Given the shallow bedrock throughout the site area, it would likely require lining the entire pond area with an impermeable liner to significantly reduce seepage through the north dam. Lining only the upstream face of the dam, or even a portion of the pond bottom beyond the base of the dam would reduce seepage through the embankment, but not through the interface between the dam foundation and embankment, or through the underlying fractured bedrock.
6. It may be possible to install a curtain drain along the downstream toe of the existing embankment to capture some of the seepage and pump it either back into the lake, or into the existing drainage downstream of the Wood and Allegra properties.

These studies establish that: (1) the dam was not constructed properly; (2) leakage from the lake is mainly occurring through the north dam at the interface between the granite bedrock surface and the bottom of the embankment/soil portion of the foundation; and (3) leakage is within a former drainage swale, now covered by the dam, between the Wood and Allegra properties.

According to Mr. Allegra, an appraisal of his property indicates that the property has been devalued \$80,000 as a result of the damage caused by excessive water. Mr. Allegra identified damages to his swimming pools, patios, driveways, landscaping, and nearby public roads.

I conclude that the Association has not presented any new evidence to change the Division's initial finding that the seepage of water from the northern lake constitutes a misuse of water. Therefore, consistent with California Code of Regulations, title 23, section 857, subdivision (b), I am recommending that the State Water Board conduct an evidentiary hearing to: (1) determine if a misuse of water exists at the Association's northern lake; (2) determine the appropriate corrective actions and time schedule to prevent any continued misuse of water, if existing; and (3) recommend any action necessary to compel the Association to correct existing damages caused by the misuse of water, if appropriate.

If the State Water Board agrees to hold a hearing on this matter, the Association and complainant will be given notice of the date and time for the hearing. Until a hearing date is set, the Association may initiate the following actions to resolve this matter without a hearing:

- 1) Terminate all deliveries of water from the San Juan Suburban Water Company into the north lake and refrain from collecting any water in the north lake other than incident precipitation and diffused surface runoff until such time as conditions causing a misuse have been alleviated to the satisfaction of the Division.

- 2) Provide a remedial action plan acceptable to the Division that corrects the misuse of water. This plan should clearly identify:
- a) the remedial measures to be taken;
 - b) the timeframe under which the remedial measures will be implemented;
 - c) the method of financing the remedial measures; and
 - d) the monitoring program that will measure the success of the remedial measures taken to prevent the misuse of water.

If you have any questions concerning this matter, please contact Charles NeSmith at (916) 341-5313, or his supervisor Charles Rich at (916) 341-5377.

Sincerely
ORIGINAL SIGNED BY:

James W. Kassel
Assistant Division Chief

cc: Tony and Donna Wood
Ted and Cheri Allegra
7884 Jon Way
Granite Bay, CA 95746

Shauna Lorance, General Manager
San Juan Water District
P.O. Box 2157
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Victoria A. Whitney
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