

RESOLUTION 2014-1

LAKE TAHOE VISITORS AUTHORITY

WHEREAS, the Lake Tahoe Visitors Authority (“LTVA”) is a Nevada not-for-profit corporation engaged in promoting tourism within the area comprising the South Shore of Lake Tahoe (“Tahoe South”);

WHEREAS, Tahoe South has hosted an annual fireworks display to celebrate our nation’s Independence Day for the past 35 years (“Independence Day Celebration”);

WHEREAS, LTVA became the sponsor of the Independence Day Celebration in or around 2005;

WHEREAS, the Independence Day Celebration is conducted off the shore of the Edgewood Tahoe Resort located in Douglas County, Nevada;

WHEREAS, the Tahoe South Independence Day Celebration is one of our nation’s premier 4th of July displays, a legacy event enjoyed each year by thousands of visitors and residents alike;

WHEREAS, prior to LTVA’s sponsorship of the Independence Day Celebration, the Lahontan Regional Water Quality Control Board (“Lahontan”) conducted monitoring of the Independence Day Celebration to assess impacts of the fireworks display to Lake Tahoe’s famed crystalline waters;

WHEREAS, Lahontan’s monitoring did not evidence the Independence Day Celebration caused harm to the waters of Lake Tahoe and Lahontan took no further action;

WHEREAS, the fireworks display zone is within Kingsbury General Improvement District’s (“KGID”) water intake facilities and KGID’s monitoring demonstrates the Independence Day Celebration does not harm water quality;

WHEREAS, Lahontan, the Tahoe Regional Planning Agency (“TRPA”), and the Nevada Division of Environmental Protection (“NDEP”) (collectively, “Regulating Agencies”) have not asserted the Independence Day Celebration requires the issuance of a permit from a Regulating Agency for this event or the Labor Day fireworks celebration;

WHEREAS, LTVA and its contractor Pyro Spectaculars North, Inc. (“Pyro”) have followed a robust clean-up procedure following the Independence Day Celebration that includes collection of any firework remnants by vessel the night of and days following the event, as well as employment of a dive crew to clean up fireworks and other debris the divers observe upon the lake bottom;

WHEREAS, the dive crew typically cleans up far more debris that is unrelated to the fireworks display than debris from the Independence Day Celebration, such as bottles, cans, clothing, sunglasses, and other trash;

WHEREAS, prior to the Independence Day Celebration, LTVA meets and confers with local regulators, including the City of South Lake Tahoe Fire Department, the Tahoe Douglas Fire Department, and TRPA;

WHEREAS, Joe and Joan Truxler (“Truxlers”) have been owners of a condominium unit at Pinewild Condominiums, a lakefront development located at Marla Bay, Nevada, since 1999;

WHEREAS, on or about July 5, 2013, the Truxlers first complained of fireworks debris from the Independence Day Celebration washing up on the beach in front of their condominium unit following the 2013 Independence Day Celebration;

WHEREAS, to the best of LTVA’s knowledge, 2013 was the first time a complaint had been made concerning the presence of fireworks debris on a beach following the Independence Day Celebration, although the Truxlers did not contact LTVA;

WHEREAS, in July 2013, the Tahoe Douglas Fire District (“TDFD”) examined the fireworks debris collected by the Truxlers and reported to the Truxlers and others that much of the materials collected by the Truxlers did not originate from the Independence Day Celebration;

WHEREAS, on November 6, 2013, the Truxlers have filed a lawsuit against LTVA and Pyro seeking injunctive relief and statutory penalties against LTVA and Pyro contending LTVA and Pyro violated the Clean Water Act (“CWA”) by conducting the Independence Day Celebration without first obtaining a National Pollution Discharge Elimination Systems (“NPDES”) permit;

WHEREAS, LTVA has conferred with the Regulatory Agencies and has been advised the permits issued by the South Lake Tahoe Fire Department and the US Coast Guard are sufficient;

WHEREAS, LTVA thereafter contacted NDEP, the agency empowered to issue NDPES permits under the CWA, to ascertain whether a NDPES permit was required for its Independence Day Celebration;

WHEREAS, on December 18, 2013, the NDEP issued a letter advising an NDPES permit was not required to stage the Independence Day Celebration and that regulation of the Tahoe South fireworks is a matter for local oversight;

WHEREAS, LTVA has requested the TDFD to issue a permit to memorialize LTVA's commitment to clean up post fireworks show impacts;

WHEREAS, LTVA and its members are partners in the protection of Lake Tahoe;

WHEREAS, LTVA's promotional activities generate revenues to both the public and private sectors that contribute to local environmental projects and programs;

WHEREAS, LTVA's mission is to promote visitation to Tahoe South by promoting and marketing Tahoe South events, such as Celebrity Golf, Heavenly Holidays and SnowGlobe;

WHEREAS, it is not LTVA's custom or practice to contract for events;

WHEREAS, the Truxlers are seeking penalties against LTVA and Pyro of up to \$37,500 for each firework discharged over the past five years, claiming potential penalties could exceed \$70,000,000;

WHEREAS, LTVA is a marketing organization and is not a for-profit enterprise formed to conduct or contract for events;

WHEREAS, the Truxlers' pursuit of penalties and defense of their litigation diminishes LTVA's ability to promote tourism for Tahoe South;

WHEREAS, LTVA is ready, willing and able to collaborate with all interested parties to protect the Lake and help educate non-residents about the marvels of Lake Tahoe; LTVA is unable to continue in its role as the entity responsible for contracting for fireworks shows, and the litigation risk resulting from future fireworks shows;

NOW, THEREFORE, BE IT RESOLVED, effective this 27th day of March, 2014, LTVA shall not contract for events, including, but not limited to, the fireworks displays;

BE IT FURTHER RESOLVED, the July 4, 2014 Independence Day Celebration is cancelled and henceforth LTVA shall not contract for or conduct any fireworks displays;

BE IT FURTHER RESOLVED, LTVA shall continue to assist the community to promote and market events and activities at Tahoe South and assist the community to improve the economy and environment at Tahoe South;

BE IT FURTHER RESOLVED, this Resolution shall be rescinded in the event the litigation entitled *Truxler, et al. v. Pyro Spectaculars North, Inc., et al*, United States District Court, Eastern District of California, Case No. 2:13-cv-02310, is settled by April 4, 2014, in which case the July 4, 2014 fireworks show will proceed.

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Date: 3/27/14

By: 
Pat Ronan, Chairman of the Board