

# 1-week reprieve to save South Tahoe fireworks

By Kathryn Reed

STATELINE – Light up Lake Tahoe may be redefined. There's a good chance it will be the stars that people will be enjoying this Fourth of July instead of fireworks in South Lake Tahoe.

The Lake Tahoe Visitors Authority board of directors at an emergency meeting March 27 decided that if the lawsuit brought against LTVA and Pyro Spectaculars by a Marla Bay couple cannot be resolved or dismissed by April 4, then there will be no fireworks on the South Shore this July 4 or Labor Day weekend – or ever again.

The resolution that was unanimously adopted after 2½ hours of testimony and deliberations further states, "LTVA shall not contract for events, including, but not limited to, the fireworks displays."



Fireworks on the South Shore of Lake Tahoe may be a thing of the past. Photo/Howie Nave

The issue has been percolating since shortly after last year's July 4 fireworks show when debris started washing up on

Pinewild Beach where Joan and Joe Truxler live. They filed a lawsuit last fall with the goal of getting some agency to have oversight of the displays and to have better cleanup at the lake. They repeatedly say they want the lake protected, not to shutdown the 35-year-old show.

Carol Chaplin, LTVA executive director, said the Truxlers never contacted her agency. And she is of the belief that a lawsuit was always planned because legal documents arrived so soon after the Labor Day show that the Truxlers had to have already retained their attorney.

But there is no agency that issues permits involving the fireworks and the lake. Fire departments permit the barges and the actual explosives.

### **The lawsuit**

The Truxlers are invoking the federal Clean Water Act. The lawsuit claims each mortar launch is a separate violation and should come with a fine of \$37,500. More than 100 rockets are set off just on July 4. The fines can be retroactive up to five years. If they were to succeed, that penalty would be more than \$70 million.

And it was repeatedly stated that this would bankrupt the South Shore's tourism agency.

"The risks to the LTVA are so overwhelming it would be better to get out of the fireworks business," Lew Feldman, attorney representing LTVA, said.

Even if the LTVA says no more fireworks, the lawsuit is still active.

The expense of fighting the litigation could possibly bankrupt the agency, too. This is because it would be a case of first impression, meaning no court in the country has issued an opinion that fireworks violate the Clean Water Act. It could

take years to resolve, especially if appeals and higher courts are involved.

Kim Gallick, executive director of the Rudolph Monte Foundation in Aptos, was one of the 36 people to speak Thursday. Everyone who spoke was in favor the fireworks, wanting to keep the lake and beaches clean; with most speaking of the economic impact if the fireworks go away; as well as the desire to work with the Truxlers.

What Gallick brought to the table is the experience of running an organization that also has a fireworks display in a pristine area – the Monterey Bay Sanctuary. She offered to share their procedures for cleanup, but also is worried the lawsuit will impact her group.

“I believe the lawyer is the problem,” South Lake Tahoe City Manager Nancy Kerry said of Mike Lozeau who is representing the Truxlers. “This would be precedent setting.” She said it would affect fireworks displays from coast-to-coast.

Kerry said she spoke with Joe Truxler this week and believes a resolution can be found. She believes Lozeau is the stumbling block because he wants to make a name for himself.

Lozeau is well known with many in Tahoe. He has often represented the League to Save Lake Tahoe and has successfully sued the Tahoe Regional Planning Agency.

### **Impacts to the community**

Mediation between the two sides fell apart this month. Now there is one more week to find a resolution before the LTVA will be out of the fireworks business and the South Shore out of millions of dollars in revenue.

B Gorman, Lake Tahoe South Shore Chamber of Commerce executive director, said \$34.672 million is what the Fourth of July weekend represents to the area just in terms of lodging

dollars. At a minimum, most businesses said that holiday represents 15 percent of their annual income.

Some who spoke said they are getting inquiries about whether they should cancel their reservations because it's the fireworks they come for. Wait a week is the answer.

### **Possible oversight**

Part of the lawsuit is that the Truxlers want the fireworks to be regulated. Tahoe Douglas Fire Chief Ben Sharit said his agency is willing to be the permitting agency. That offer was presented during mediation and rejected.

On the California side of the lake, where the South Shore pyrotechnics are shot off from, it would be the Lahontan Regional Water Quality Control Board that would issue a permit.

"Water boards are allowed up to 140 days to issue a permit once we have received a complete application. The soonest we could consider a permit is about 90 days from receipt of a completed application," Lauri Kemper with Lahontan told *Lake Tahoe News*.

The fee would likely be \$1,452, which is category 3 – the lowest threat to water quality.

The San Diego Water Board is the only agency that has issued a permit for fireworks. It's for the Sea World display.

"The permit requires a BMP plan, including requirements for debris removal and consideration of pyrotechnics with lower quantities of perchlorate, and completion of a post fireworks report, found here – estimating quantity of debris cleaned up/removed," Kemper said. "This example would be similar to a permit that the Lahontan Water Board might develop and consider if an application were received. The board may consider imposing additional monitoring requirements."

One way to avoid the Lahontan requirements would be to move the barge closer to Edgewood Tahoe or anywhere in Nevada.

“The Nevada Division of Environmental Protection encourages the Lake Tahoe Visitors Authority and its contractors to continue compliance with any applicable local permits, plans or requirements. NDEP does not require additional oversight of the twice a year firework displays,” JoAnn Kittrell with the Nevada Department of Conservation & Natural Resources told *Lake Tahoe News* in January.

The EPA is above Lahontan and the NDEP. That agency has not received a fireworks permit to review.

### **Discrepancies and other issues**

While the Truxlers claim to have collected thousands of pieces of debris, it is not all from the LTVA show.

Sharit said debris was from illegal displays and that some of the trash was just that – trash like bottles, shoes and other items. He added that the Truxlers did not contact his agency after the Labor Day show.

Cherise Smith’s family has had a house on the first privately owned beach past Nevada Beach on the Nevada side since 1946. For 35 years she has watched the Fourth of July fireworks.

“I have never experienced debris,” she told the board. “We think you have done a great job. And our water comes straight from the lake into our pump. If we felt there was a problem of any type, if there were pollution, we would be the first to complain.”

Cameron McKay, general manager of Kingsbury General Improvement District, said, “I’m willing to commit resources to LTVA to do water sampling. The lake is our water supply.”

The district does regular testing.

"We test for parts per billion and we get non-detect," McKay said.

### **Going forward**

It was left Thursday that Feldman would work with the courts to try to reactivate the mediation process. The course of action is for the community to try to engage the Truxlers. Their phone number was being handed out as the more than 100 people in attendance left the meeting.

It's also possible a group of community members will meet with the Truxlers. Nevada Lt. Gov. Brian Krolicki and California state Sen. Ted Gaines, R-Roseville, spoke first and both urged that a resolution be found to keep the fireworks alive. They also offered their offices as a means to work on compromise.

Another casualty in all of this is the fireworks show that NBC and American Century had planned for the 25th anniversary of the American Century Championship Golf Tournament in July.

The lawsuit does not, at this time, affect any other fireworks around the lake.