

Lahontan Regional Water Quality Control Board

December 17, 2015

TO ALL INTERESTED PERSONS AND AGENCIES

Tentative Rescission of Waste Discharge Requirements for the Fort Bidwell Indian Community Council Sewage Treatment Facility, Fort Bidwell, Modoc County

Enclosed is a tentative rescission order for the Fort Bidwell Sewage Treatment Facility (Facility), owned and operated by the Fort Bidwell Indian Community Council (Council). The California Regional Water Quality Control Board, Lahontan Region (Water Board) is considering rescinding Board Order No. 6-93-90, and no longer regulating the waste discharge of treated wastewater from the sewage treatment facility..

The Water Board is requesting that you review the tentative rescission order and provide your comments no later than **January 18, 2016**. Please email your comments to:

Lahontan@waterboards.ca.gov

Subject Line: Comments-Ft. Bidwell Tentative Rescission.

Comments received after January 18, 2016 may not be considered in preparing a proposed rescission order, which is currently scheduled to be considered by the Water Board at its March 9-10, 2016 meeting, in South Lake Tahoe.

Approximately 10 to 15 days prior to each meeting, the Water Board publishes its agenda on the Internet at:

http://www.waterboards.ca.gov/lahontan/board_info/agenda/upcoming.shtml#top. The proposed rescission order will be posted to the Water Board's website under links in the agenda. If you prefer to obtain a paper copy of the Water Board meeting agenda, or have any questions or concerns regarding this matter, please contact me at (530) 542-5480 or William.Chen@waterboards.ca.gov.



William Chen
Scientific Aid

Enclosures: 1) Tentative Order
2) Optional Comment Form

WC/dk/T: Tent Cover Letter-Ft Bidwell

KIMBERLY COX, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

....NOTICE....

Submittal of Written Material for Regional Board Consideration

In order to ensure that the Water Board has the opportunity to fully study and consider written material, it is necessary to submit it at least ten (10) days before the meeting. This will allow distribution of material to the Board Members in advance of the meeting. Pursuant to Title 23 California Code of Regulations Section 648.4, the Water Board may refuse to admit written testimony into evidence unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would otherwise create a hardship. If any other party demonstrates prejudice resulting from admission of the written testimony, the Water Board may refuse to admit it.

A copy of the procedures governing Water Board meetings may be found at Title 23, California Code of Regulations, Section 647 et seq., and is available upon request. Hearings before the Water Board are not conducted pursuant to Government Code Section 11500 et seq.

Complete Form and Return

TO: California Regional Water Quality Control Board, Lahontan Region

SUBJECT: Comments on Tentative Rescission of Waste Discharge Requirements for the Fort Bidwell Sewage Treatment Facility

_____ We concur with tentative rescission order

_____ We concur; comments attached

_____ We do not concur; comments attached

_____ **(Sign)**

_____ (Type or print name)

_____ (Organization)

_____ (Address)

_____ (City and State)

_____ (Telephone)

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

BOARD ORDER NO. R6T-2016-(TENTATIVE)

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS
BOARD ORDER NO. 6-93-90
WDID 6A250007000**

FOR

FORT BIDWELL SEWAGE TREATMENT FACILITY

Modoc County

The California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. Discharger and Facility Description

The Fort Bidwell Indian Community Council (hereinafter referred to as “Discharger” or “Paiute Tribe”) owns and operates the Fort Bidwell Indian Community sewage collection, treatment, and disposal system (Facility). The Facility is located on the Fort Bidwell Reservation, about one half mile from the community of Fort Bidwell,, in the Surprise Valley Hydrologic Unit. For the purposes of this Order,

The Facility’s sewage treatment and disposal components consists of seven earthen evaporation ponds, five of which contain synthetic liners, surrounded by a chain-link fence. The rectangular basins are similar in size, roughly 200 feet by 250 feet, with a total evaporation surface area of about 4.6 acres. A constructed three-sided underground rock drain intercepts and routes groundwater around the ponds.

2. Permit History

The Water Board previously established waste discharge requirements for the Facility under Board Order No. 6-74-45, Board Order No. 6-85-102, and most recently under Board Order No. 6-93-90, which was adopted on September 9, 1993.

3. Basis for Rescission

The Water Board periodically reviews and updates existing waste discharge requirements in order to incorporate new regulations and policies. Water Board staff recently conducted a file and records review for Board Order No. 6-93-90, as part of the above-referenced review and update program.

Water Board staff observed past correspondence from the Discharger's legal counsel asserting that without expressed consent being provided by the Paiute Tribe, the Water Board did not have the authority to regulate activities on lands owned by a federally-recognized Indian tribe (Tribal Lands). The Paiute Tribe is a federally-recognized Indian tribe. The correspondence also stated that the Paiute Tribe was not aware providing expressed consent to be regulated by the Water Board. Water Board staff also is not aware of such expressed consent being provided by the Paiute Tribe.

The State Water Resources Control Board Office of Chief Counsel has provided guidance documents regarding Water Board regulation of activities on Tribal Lands. The guidance documents generally support the position outlined in the Discharger's correspondence regarding the matter.

Water Board staff contacted Paiute Tribe representatives to inform them of staff's proposal to rescind the waste discharge requirements. The Paiute Tribe representatives reaffirmed their position regarding the Water Board's authority to regulate activities on Tribal Lands. The Paiute Tribe representatives also expressed their support for rescinding Board Order No. 6-93-90 and willingness to work together in a non-regulatory environment. These conditions support rescinding Board Order No. 6-93-90.

4. Conclusions

It is in the public interest to rescind Board Order No. 6-93-90 based upon recognition that the Water Board does not have the authority to regulate activities on Tribal Lands, the Paiute Tribe does not wish to be subject to waste discharge requirements, and that environmental protection on Tribal Lands is within the United States Environmental Protection Agency's jurisdiction.

5. California Environmental Quality Act

Rescission of the waste discharge requirements is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) in accordance with section 15321, title 14, California Code of Regulations.

6. Notification of Interested Parties

The Water Board notified the Discharger and interested parties of its intent to rescind waste discharge requirements prescribed by Board Order No. 6-93-90 at its March 9-10, 2016 meeting in South Lake Tahoe.

7. Public Meeting

The Water Board, in a public meeting, heard and considered all comments pertaining to this Rescission Order.

IT IS HEREBY ORDERED THAT Board Order No. 6-93-90 is hereby rescinded.

I, Patty Z. Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Lahontan Region, on **March 9, 2016**.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER