

**California Regional Water Quality Control Board
Lahontan Region**

**HEARING PROCEDURES
CONSIDERATION OF ADOPTION OF CEASE AND DESIST ORDERS FOR
MULTIPLE PROPERTY OWNERS (SEE ATTACHED LIST), SPALDING TRACT,
EAGLE LAKE, LASSEN COUNTY**

REGIONAL BOARD HEARING SCHEDULED FOR SEPTEMBER 14 – 15, 2011

IMPORTANT

Please read this hearing procedure carefully. Failure to comply with the deadlines and other requirements contained herein may result in the exclusion of your documents and/or testimony.

- A. The Lahontan Regional Water Quality Control Board (Water Board) must receive a summary of testimony and witness list from the Prosecution Team no later than 4:00 p.m. on Monday, August 15, 2011.
- B. The Water Board must receive requests from persons requesting designated party status no later than 4:00 p.m. on Tuesday, August 16, 2011.
- C. The Water Board must receive all written objections to this hearing procedure no later than 4:00 p.m. on Friday, August 19, 2011.
- D. The Water Board must receive all written objections to requests for designated party status no later than 4:00 p.m. on Tuesday, August 23, 2011.
- E. The Water Board must receive the following submittals no later than 4:00 p.m. on Monday, August 29, 2011:
 - 1. Submission of evidence, testimony and witness lists from designated parties other than the Prosecution Team;
 - 2. Requests for separate hearings; and,
 - 3. Written requests from designated parties or interested persons for additional time for presentation at the hearing.
- E. The Water Board must receive the following submittals no later than 4:00 p.m. on Tuesday, September 6, 2011:
 - 1. Written rebuttal evidence or testimony from all designated parties; and,
 - 2. Written non-evidentiary policy statements from interested persons;
- F. The Water Board must receive any written evidentiary objections (if any) to evidence or testimony submitted from all of the designated parties no later than Monday, September 12, 2011.

Background

On August 1, 2011, the Water Board Enforcement Unit circulated proposed Cease and Desist Orders (Orders) for multiple property owners (see attached list) in the Spalding Tract, Eagle Lake, Lassen County. The proposed orders allege that property owners are violating or threatening to violate a discharge prohibition contained in the Water Quality Control Plan for the Lahontan Region. The proposed orders, if adopted, would establish a schedule for compliance with the discharge prohibition.

Purpose and Timing of Hearings

The purpose of the hearings is to consider relevant evidence and testimony regarding the proposed Orders. The Water Board will hold a hearing on each proposed Order. Property Owners listed in Attachment 1 may request individual hearings. The Water Board will hold a combined hearing to consider those proposed orders where the Property Owner has not requested a separate hearing or submitted evidence. The Water Board can consider a wide range of options including, but not limited to, adopt the Orders as proposed or with changes, or rejecting the proposed orders in their entirety.

Property Owners subject to a proposed Order may request an individual hearing. If a Property Owner subject to a proposed Order does not submit any evidence or request an individual hearing, the Water Board will consider the proposed Order specific to that person during a consolidated hearing at the conclusion of the individual hearings. Property Owners desiring to have a separate hearing on the proposed Order applicable to them must submit a request to the Water Board Advisory Team **no later than 4:00 p.m. on Monday, August 29, 2011**. Property Owners submitting evidence pursuant to the timelines in these procedures will be deemed to be requesting a separate hearing. Property Owners who request a separate hearing but do not submit evidence pursuant to the timelines in these procedures will be precluded from submitting evidence at the hearing but may cross-examine other parties. The public hearing will be held during the regular meeting of the Lahontan Water Board on September 14 – 15, 2011. The hearings will commence at a time and location as announced in the Water Board meeting agenda. An agenda for the meeting will be available on the Water Board's web page at <http://www.waterboards.ca.gov/lahontan/> no later than August 26, 2011.

Hearing Procedures

The hearings will be conducted in accordance with this hearing procedure or as it may be amended. A copy of the general procedures governing adjudicatory hearings before the Water Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in

Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

The Water Board's Advisory Team must receive any objections to this hearing procedure **no later than 4:00 p.m. on Friday, August 19, 2011** or they will be considered waived.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Designated parties and interested persons may be asked to respond to clarifying questions from the Water Board and Advisory Team members.

The following participants are hereby designated as parties in this proceeding:

- (1) Water Board Prosecution Team
- (2) Property Owners listed in Attachment 1

Note: Each Property Owner listed in Attachment 1 is a separate designated party. These Hearing Procedures require that the Property Owner listed in Attachment 1 making submittals to the Water Board also send a copy to the other designated party. For the purpose of complying with this requirement, Property Owners listed in Attachment 1 need only send a copy to Water Board Prosecution Team (the other designated party) along with the Advisory Team. It is not necessary for Property Owners listed in Attachment 1 to send copies of all submittals to the other Property Owners listed in Attachment 1.

Requesting Designated Party Status

Persons (other than those Property Owners listed in Attachment 1) who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) **no later than 4:00 p.m. on Tuesday, August 16, 2011** to Harold Singer, Water Board Executive Officer, and one copy to Kim Niemeyer, Advisory Team counsel at the addresses provided below. The request shall: (1) identify the hearing(s) for which you are requesting designated party status by Assessors Parcel Number (APN) and Property Owner name; (2) include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Water Board affect the person); and, (3) include a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted **no later than 4:00 p.m. on Tuesday, August 23, 2011**.

Primary Contacts

For the Water Board (Advisory Team):

Originals and specified number of copies of all documents to:	And one copy to:
Harold J. Singer, Executive Officer Regional Water Quality Control Board, Lahontan Region 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 hsinger@waterboards.ca.gov Phone (530) 542-5412 Fax (530) 544-2271	Kim Niemeyer, Staff Counsel State Water Resources Control Board, Office of Chief Counsel 1001 I Street Sacramento, CA 95814 kniemeyer@waterboards.ca.gov Phone (916) 341-5549 Fax (916) 341-5199

For Water Board Staff (Prosecution Team):

One copy of all documents to both:	
Chuck Curtis Supervising WRC Engineer Regional Water Quality Control Board, Lahontan Region 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 ccurtis@waterboards.ca.gov Phone (530) 542-5460 Fax (530) 544-2271	David Boyers Senior Staff Counsel State Water Resources Control Board, Office of Enforcement 1001 I Street Sacramento, CA 95814 DBoyers@waterboards.ca.gov Phone (916) 341-5276 Fax (916) 341-5284

For Property Owners:

See Attached List

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Water Board (Prosecution Team) have been separated from those who will provide advice to the Water Board (Advisory Team). Members of the Advisory Team are: Harold Singer, Executive Officer and Kim Niemeyer, Staff Counsel. Members of the Prosecution Team are: Lauri Kemper, Assistant Executive Officer, Chuck Curtis, Supervising Engineer, David Boyers, Senior Staff Counsel, Cris Carrigan, Staff Counsel, Scott Ferguson, Senior Engineer, and Lisa Scorable, Engineering Geologist. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Water Board in other, unrelated matters, but they are not advising the Water Board in this proceeding. Members of the Prosecution Team have not had

any ex parte communications with the members of the Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the proposed Cease and Desist Orders between a member of a designated party or interested person on the one hand, and a Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: at the beginning of each session (see meeting agenda available no later than August 26, 2011) the Prosecution Team shall have ten (10) minutes to present an overview of its evidence. For each contested order, the prosecution team shall have an additional five (5) minutes and other designated parties shall each have a total of ten (10) minutes to present evidence, cross-examine witnesses, and provide a closing statement; and each interested person shall have three (3) minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants (designated parties or interested persons) who would like additional time must submit their request to the Advisory Team with copies to the designated parties **no later than 4:00 p.m. on Monday, August 29, 2011**. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Water Board Chair (at the hearing) upon a showing that additional time is necessary.

Evidence, Exhibits and Policy Statements

The following information must be submitted in advance of the hearing:

1. All written evidence and exhibits that the designated party would like the Water Board to consider. Evidence and exhibits already in the public files of the Water Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.

3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

The Prosecution Team has indicated that the evidence it intends to submit is incorporated in each proposed Order which were transmitted to each discharger.

The remaining designated parties shall submit an original, and, if more than 20 pages or contain any documents greater than letter size or are other than black and white, than an additional 15 copies (double sided and three-hole punched) and one electronic copy of the information to Harold Singer, Water Board Executive Officer, one copy to Kim Niemeyer, Staff Counsel, and copies to the Prosecution Team as listed in the section above specifying primary contacts **no later than 4:00 p.m. on Monday, August 29, 2011.**

All designated parties have the opportunity to submit rebuttal evidence or testimony. This material shall be submitted **no later than 4:00 p.m. on Tuesday, September 6, 2011.** The original, and, if more than 20 pages or contain any documents greater than letter size or are other than black and white, than an additional 15 hard copies (double sided and three-hole punched) and one electronic copy of the material must be submitted to Harold Singer, Water Board Executive Officer, one copy to Kim Niemeyer, Staff Counsel, and hard copies to the other designated party (see Note on page 3 of these procedures) as listed in the section above specifying primary contacts.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but **no later than 4:00 p.m. on Tuesday, September 6, 2011.** Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, section 648.4, the Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Water Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A written and electronic copy of such material that Designated Parties or Interested Persons intend to present at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties (see Note on page 3 of these procedures), as early as practicable.

Evidentiary Objections

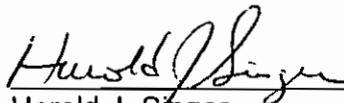
The Water Board Advisory Team (original to Harold Singer, Executive Officer, and one copy to Kim Niemeyer, Staff Counsel) must receive all written objections to the evidence or testimony submitted by any of the Designated Parties **no later than 5:00 p.m. on Monday, September 12, 2011**. Any objections must also be sent to the other designated parties (see Note on page 3 of these procedures). The Advisory Team will notify the parties about further action to be taken on such objections (if any) and when that action will be taken.

Evidentiary Documents and File

The proposed Cease and Desist Orders and related evidentiary documents are on file and may be inspected or copied at the Water Board office at 2501 Lake Tahoe Boulevard, South Lake Tahoe. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Water Board Chair.

Questions

Questions concerning these proceeding may be addressed to Harold Singer, Executive Officer, at (530) 542-5412 or Kim Niemeyer, Staff Counsel, at (916) 341-5549 or at the addresses shown above.



Harold J. Singer
Executive Officer

DATE: August 5, 2011 _____

**ATTACHMENT 1 TO HEARING PROCEDURES DATED AUGUST 5, 2011
LIST OF PROPERTY OWNERS**

PROPERTY APN	OWNERS NAME	MAILING ADDRESS
077-192-29-11	Lewis, William Joe & Lewis, David Gene	1257 Iris St, Apt 2 San Luis Obispo CA 93401
077-233-55-11	Mircetich, John & Jane	4407 A Lacanada Way Davis CA 95616
077-261-08-11	Goddard, Philip W	671 Leisure World Mesa AZ 85206-3136
077-304-65-11	Valine, Adelia Michelle	4000 Russell Rd Fairfield CA 94534
		645 N. Weatherlow St. Susanville CA 96127
077-332-42-11	Miner, Sheila M.	P O Box 270822 Susanville, CA 96130
077-344-15-11	Hasty, Clarence & Virginia Revocable Living Trust	3380 Dry Creek Rd Oroville CA 95965
077-161-24-11	Cunnington, Roger	621 Finch Rd Placerville CA 95667
077-162-11-11	Radford, Richard R c/o Robert Blackmon	129 W 2nd Ave Denver CO 80223
		722-545 Alexander Lane Standish, CA 96128
077-171-29-11	Cooley, Dennis J & Urban, John D	PO Box 355 Standish, CA 96128
077-194-41-11	Soohodolsky Family Trust	687-710 Spruce Way Susanville CA 96130
077-221-20-11	Schmidt, Ken W. & Brenda L.	99 Mount Hermon Rd Scotts Valley CA 95066
077-224-22-11	Pensco Inc FBO Judith A Davis IRA DA211	688-145 Laurel Way Susanville CA 96130
077-254-20-11	Ormachea, Gary L. & Jean Y.	3710 Camanche Pkwy North Ione CA 95640
		688-105 Hazel Way Susanville CA 96130
077-271-15-11	Todd, Dennis E & Andrea D	PO Box 265 Tule Lake CA 96134
077-292-02-11	Moore, Ronald S. & Cecilia M.	865 Plumas Street Susanville CA 96130
077-301-25-11	Williamson, Larry R	2006 Mohawk Dr Pleasant Hill CA 94523
		400 Carr Powerhouse Road Whiskeytown CA 96095
077-303-07-11	Watkins, Billy J	PO Box 175 Whiskeytown CA 96095
077-313-11-11	Malcolm, Don Quentin Roberta Oleta Family Trust	25945 Holly Vista Blvd San Bernardino CA 92404

077-313-17-11	Solis, Jesus H. & Rose Marie	1080 Jennings Ave Apt 208 Santa Rosa CA 95401
077-343-19-11	Jones, Ronald D. & Carol	2744 Broadway Redwood City CA 94062
077-351-27-11	Johnson, Mark	368 Green Valley Rd Scotts Valley CA 95066
077-387-20-11	Koski, Garnet Arthur Irrevocable Trust	14834 Northwood Drive Magalia CA 95954
		PO Box 1264 Oroville CA 95965
077-401-09-11	Bryant, Vincent Keith & Rebeca Lynn	PO Box 271 Kasilof AK 99610
077-191-29-11	Jamison, Dwight M. & Carol L.	110 Muletail Circle Reno NV 89508
077-264-09-11	Williamson, Larry R	2006 Mohawk Dr Pleasant Hill CA 94523
077-181-12-11 077-181-15-11 077-182-09-11 077-183-17-11 077-191-30-11 077-192-39-11	Arnold, Michael Wayne & Katherine Diane Revocable Tr	Eagle Lake RV Park 687-125 Palmetto Way Susanville CA 96130
		PO Box 420 Arnold CA 95223