

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

**FINAL HEARING PROCEDURES**

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

**WATER BOARD PUBLIC HEARING SCHEDULED FOR NOVEMBER 13-14, 2013**

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

**Background**

On August 26, 2013, the Water Board Enforcement Unit mailed proposed Cease and Desist Orders (Orders) to multiple property owners in the Spalding Tract subdivision, Eagle Lake, Lassen County. The proposed Orders allege that the property owners are violating or threatening to violate a waste 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. For more information, see:

[http://www.waterboards.ca.gov/rwgcb6/water\\_issues/programs/enforcement/spalding\\_tract\\_2013\\_cdos.shtml](http://www.waterboards.ca.gov/rwgcb6/water_issues/programs/enforcement/spalding_tract_2013_cdos.shtml)

**Purpose and Timing of Public Hearings**

The purpose of the public hearings is to consider relevant evidence and testimony regarding the proposed Orders. The Water Board will hold a combined public hearing (consolidated public hearing) to consider the proposed Orders, unless the property owner has not requested a separate public hearing or submitted evidence. Property owners listed in Attachment 1 may request an individual public hearing. At the hearing the Water Board can consider a wide range of options including, but not limited to, adopting the Orders as proposed or with changes, or rejecting the proposed Orders in their entirety.

As stated above, a property owner named in a proposed Order can request a separate public hearing. Such requests must be received by the Water Board's Advisory Team **no later than 4:00 p.m. on Monday, September 30, 2013**. Property owners named in a proposed Order submitting evidence pursuant to the schedule in these procedures will be deemed to be requesting a separate public hearing. Property owners who request a separate public hearing but do not submit evidence pursuant to the schedule in these procedures will be precluded from submitting evidence at the public hearing. However, such property owners will be able to cross-examine other parties at the public hearing.

The public hearings will be held during the regular meeting of the Water Board on **November 13-14, 2013**. The public hearings will begin 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 [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan) no later than October 24, 2013.

| Deadline       | Who Submits?                                    | Written Item  |
|----------------|---|---|
| 10/11/2013 4pm | Designated Parties, except the Prosecution Team | Technical and legal arguments/briefs, supporting evidence and documents, and witness lists; requests for separate hearings; requests for additional time at the hearing; requests for Designated Party status |
| 10/11/2013 4pm | The Public                                      | Requests for additional time at the hearing   |
| 10/21/2013 4pm | Prosecution Team                                | Rebuttal evidence or testimony  |
| 10/23/2013 4pm | The Public                                      | Statements pertaining to the allegations  |
| 10/30/2013 4pm | Designated Parties                              | Objections to evidence or testimony or to rebuttal evidence or testimony  |
| 10/31/2013     | Advisory Team                                   | Proposed Orders, objections and comments received to be posted on Water Board's website and sent to parties   |

The above-listed deadlines apply to those who want to participate in the Lahontan Regional Water Quality Control Board's (Water Board) November 13-14, 2013 public hearing. The Water Board is holding the public hearing to receive evidence and testimony/statements from the Water Board's Prosecution Team, property owners named in the proposed Cease and Desist Orders (**Designated Parties**), and from the public, which includes any interested agency, person, or organization (**Public**).

Any public member who wishes to comment on the alleged violations, is encouraged to submit information as **the Public**.

Following the public hearing, the Water Board will consider adopting Cease and Desist Orders for Spalding Tract property owners who have yet to either connect their on-site wastewater disposal system to the community sewer system or to properly abandon it.

### **Instructions for All Submittals**

To facilitate the public hearing process, the following types of information/documentation must be submitted prior to the public hearing Water Board review:

- Technical and legal arguments/briefs
- Supporting evidence and documents
- Statements pertaining to the allegations

All submittals must be on 8½” x 11” size paper (including attachments and figures), must be in a legible font no smaller than 11-point size, and should be submitted electronically in a searchable pdf format. In an effort to save paper and electronic file space, you may reference documents that have been previously submitted or are part of the public record for this case, and there is no need or requirement to include full copies of those documents. For each document included by reference, identify the name of that document within the submittal, the location of where the document resides, a copy of the relevant pages from the document, and a statement explaining why those excerpts of the document are relevant to your case. Examples of such documents that need not be submitted in full include, but are not limited to, previously submitted monitoring reports, documents that have been shared between the Prosecution Team and property owners named in the proposed Cease and Desist Orders, and documents that can be downloaded from the Water Board’s website regarding this case:

[http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/enforcement/index.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/enforcement/index.shtml)

### **Special Instructions**

**For the Public** – Please submit your information to the Water Board’s Executive Assistant, Sue Genera. Ms. Genera works at the Water Board’s South Lake Tahoe office and she can be reached at [SGenera@waterboards.ca.gov](mailto:SGenera@waterboards.ca.gov) or (530) 542-5414. Please contact Ms. Genera directly if you have any questions. Each email or hard copy submittal sent to Ms. Genera must have in the subject line, “Spalding Tract 2013 CDO Hearing.”

**For the Prosecution Team** – In addition to a hard copy original, the Prosecution Team shall submit an electronic copy of each submittal, in addition to 15 hard copies (double-sided, three-hole punched). The originals, electronic copies, and 15 hard copies of each submittal must be received by the Advisory Team by the deadlines specified above. An additional copy of each submittal must be sent to Kim Niemeyer, Staff Counsel and to the other Designated Parties.

**For Designated Parties Other than the Prosecution Team** – If the submittals include more than 20 pages, follow the directions for the Prosecution Team specified above. Otherwise, an original and one electronic copy must be received by the Advisory Team by the deadlines specified above. An additional copy (electronic or hard copy) of each submittal must also be submitted to Kim Niemeyer, Staff Counsel, and the Prosecution Team Primary Contacts identified below. Each e-mail submittal must have the e-mail subject line, “Spalding Tract 2013 CDO Hearing.”

### **Objections to Hearing Procedures**

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

The Water Board’s Advisory Team must receive any objections to this set of hearing procedures **no later than 4:00 p.m. on Tuesday, October 1, 2013** or they will be considered waived.

### **Public Hearing Participants**

Participants in these public hearings are identified as either “Designated Parties” or “Public.” Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Public include all parties (e.g., the public/citizens, agencies organizations, interest groups), other than those identified as Designated Parties. Interested Persons/Parties may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. All parties, Designated and Public, may be asked to respond to questions from Water Board members and the Water Board’s Advisory Team.

The following participants are hereby identified as Designated 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 owners listed in Attachment 1 making submittals to the Water Board also send a copy to the other Designated Party. To comply with this requirement, copies of submittals must be sent to the Prosecution Team. It is not necessary to provide 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 public hearing as a Designated Party must submit their request for such status in writing (with copies of the request sent to the other Designated Parties). Such requests must be received by the Advisory Team **no later than 4:00 p.m. on Friday, October 11, 2013**. The request shall: (1) identify the hearing(s) for which you are requesting Designated Party status by Assessor's Parcel Number (APN) and property owner name; (2) include an explanation of the basis for the 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 requesting the status change); and, (3) include a statement explaining why the currently identified Designated Parties do not adequately represent the interests of the person requesting the status change. Objections to such request must be received by the Advisory Team **no later than 4:00 p.m. on Wednesday, October 30, 2013**.

**Primary Contacts**

For the Water Board's Advisory Team

| <b>Originals and specified number of copies of all documents to:</b>   | <b>And one additional copy to:</b>  |
|--|---|
| Patty Z. Kouyoumdjian, Executive Officer<br>Lahontan Regional Water Quality Control Board<br>2501 Lake Tahoe Blvd.<br>South Lake Tahoe, CA 96150<br><a href="mailto:PKouyoumdjian@waterboards.ca.gov">PKouyoumdjian@waterboards.ca.gov</a><br>Phone: (530) 542-5412<br>Fax: (530) 544-2271 | Kim Niemeyer, Staff Counsel<br>State Water Resources Control Board,<br>Office of Chief Counsel<br>1001 I Street<br>Sacramento, CA 95814<br><a href="mailto:KNiemeyer@waterboards.ca.gov">KNiemeyer@waterboards.ca.gov</a><br>Phone: (530) 341-5549<br>Fax: (916) 341-5199 |

For the Water Board's Prosecution Team

| <b>One copy of all documents to both:</b>  |   |
|--|---|
| Chuck Curtis, Supervising WRC Engineer<br>Lahontan Regional Water Quality Control Board<br>2501 Lake Tahoe Blvd.<br>South Lake Tahoe, CA 96150<br><a href="mailto:CCurtis@waterboards.ca.gov">CCurtis@waterboards.ca.gov</a><br>Phone: (530) 542-5460<br>Fax: (530) 542-5470 | Vanessa Young, Staff Counsel<br>State Water Resources Control Board,<br>Office of Enforcement<br>1001 I Street<br>Sacramento, CA 95814<br><a href="mailto:VYoung@waterboards.ca.gov">VYoung@waterboards.ca.gov</a><br>Phone: (916) 327-8622<br>Fax: (916) |

For Property Owners

|                  |
|------------------|
| See Attachment 1 |
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### **Separation of Functions**

Water Board staff participating in this proceeding has been separated into two teams to help ensure the fairness and impartiality of this proceeding. The Water Board's Prosecution Team includes staff who will act in a prosecutorial role by presenting evidence for consideration by the Water Board. The Water Board's Advisory Team includes staff who will provide the Water Board with technical and legal advice. Advisory Team members are: Patty Z. Kouyoumdjian, Executive Officer, Kim Niemeyer, Staff Counsel, Doug Smith, Supervising Engineering Geologist, and Richard Booth, Senior Engineering Geologist. Prosecution Team members are: Lauri Kemper, Assistant Executive Officer; Chuck Curtis, Supervising WRC Engineer; Scott Ferguson, Senior WRC Engineer; Lisa Scorallo, Engineering Geologist; Vanessa Young, Staff Counsel; and David Boyers, Staff Counsel.

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 Water Board members or Advisory Team members regarding this proceeding.

### **Ex Parte Communication**

The Designated Parties and Public are forbidden from engaging in ex parte communications regarding this matter with Water Board members or Advisory Team members. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the proposed Orders between a Designated Party or Interested Person/Party on one hand, and a Water Board member or 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 Public themselves are not ex parte contacts.

### **Hearing Time Limits**

Please note that the scheduled Public Hearing is designed for the Parties to simply summarize the previously submitted evidence/argument. This means that all evidence or argument must be submitted by the deadlines specified in these Hearing Procedures, so the Parties do not need to reintroduce any evidence. At the Hearing, the Parties should focus their limited time to highlight important points from the previously submitted evidence or testimony.

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 October 24, 2013) the Prosecution Team shall have no more than ten (10) minutes to present an overview of its evidence for all the proposed Orders and the ten minutes total includes the overall closing statement. For each contested Order, the Prosecution Team shall have no more than 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/Party 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 and Public) who would like additional time must submit their request in writing to the Advisory Team with copies to the Designated Parties. Such requests must be received by the Advisory Team **no later than 4:00 p.m. on Friday, October 11, 2013**. 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 public hearing:

1. All written evidence and exhibits that a Designated Party would like the Water Board to consider. Evidence and exhibits already in the Water Board's public files may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3.
2. All legal briefs and technical arguments or analysis.
3. The name of each witness, if any, whom a 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 it has submitted its evidence as part of each proposed Order, which have been transmitted to each property owner.**

The remaining Designated Parties (e.g., property owners named in the proposed Orders) shall submit their information (described in Nos. 1 – 4, above) according to the Instructions for All Submittals, above. This information must be received by the Advisory Team **no later than 4:00 p.m. on Friday, October 11, 2013**. An additional copy of the submittal must be received by Kim Niemeyer, Staff Counsel and by the Prosecution Team Primary Contacts identified above.

The Prosecution Team has the opportunity to submit rebuttal evidence or testimony in conformance with the Instructions for All Submittals. This material must be received by the Advisory Team **no later than 4:00 p.m. on Monday, October 21, 2013**. An additional copy of the submittal must be received by Kim Niemeyer, Staff Counsel and by the other Designated Party(ies) the Prosecution Team is responding to.

Public members who would like to submit written non-evidentiary policy statements are encouraged to submit them as early as possible, but **no later than 4:00 p.m. on Wednesday, October 23, 2013**. Public members do not need to submit written comments in order to speak at the public 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 timely 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.

### **Evidentiary Objections**

The Advisory Team must receive all written objections to evidence or testimony or rebuttal evidence or rebuttal testimony **no later than 4:00 p.m. on Wednesday, October 30, 2013**. An additional copy of the submittal must also be received by Kim Niemeyer, Staff Counsel, and the other Designated Parties (see Note on page 5, above). 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.

### **Request for Pre-hearing Conference**

A Designated Party may request that a pre-hearing conference be held before the public 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:

- (1) Exploration of settlement possibilities.
- (2) Preparation of stipulations.
- (3) Clarification of issues.
- (4) Rulings on identity and limitation of the number of witnesses.
- (5) Objections to proffers of evidence.

- (6) Order of presentation of evidence and cross-examination.
- (7) Rulings regarding issuance of subpoenas and protective orders.
- (8) Schedules for the submission of written briefs and schedules for the commencement and conduct of the hearing.
- (9) Exchange of witness lists and of exhibits or documents to be offered in evidence at the hearing.
- (10) Motions for intervention.
- (11) Exploration of the possibility of using alternative dispute resolution provided in Article 5 (commencing with Section 11420.10) of, or the informal hearing procedure provided in Article 10 (commencing with Section 11445.10) of, Chapter 4.5, and objections to use of the informal hearing procedure. Use of alternative dispute resolution or of the informal hearing procedure is subject to subdivision (d).
- (12) Any other matters as shall promote the orderly and prompt conduct of the hearing.

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 5, above), as early as practicable.

### **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's office at 2501 Lake Tahoe Blvd, South Lake Tahoe, CA. These files shall be considered part of the official administrative record for these public hearings. Other submittals received for this proceeding will be added to these files and will become part of the administrative record absent a contrary ruling by the Water Board Chair.

### **Questions**

Questions concerning this proceeding may be addressed to Patty Kouyoumdjian, Executive Officer at (530) 542-5412, or Kim Niemeyer, Staff Counsel, at (916) 341—5549.



Patty Z. Kouyoumdjian  
Executive Officer

DATE: September 23, 2013

Attachment

**ATTACHMENT 1 TO HEARING PROCEDURES DATED  
SEPTEMBER 23, 2013  
LIST OF PROPERTY OWNERS**

| <b>PROPERTY APN</b> | <b>OWNERS NAME</b>                                      | <b>MAILING ADDRESS</b>  |
|---------------------|---|---|
| 077-171-29-11       | Cooley, Dennis J. & Urban, John D.                      | P.O. Box 355<br>Standish, CA 96128-0355                                       |
| 077-222-14-11       | Miller Custom Works c/o James C. Miller                 | P.O. Box 1300<br>Susanville, CA 96130   |
| 077-254-27-11       | Steinocher, Daniel G. & Linda L. JT                     | 969 Kenmore Lane<br>Santa Rosa, CA 95407                                      |
| 077-300-03-11       | Frack, Larry Alan                                       | 3490 East Golden Valley Rd<br>Reno, NV 89506-9785                             |
| 077-302-16-11       | GMAC Mortgage LLC c/o GMAC Mortgage Corp.               | 1100 Virginia Drive<br>Fort Washington, PA 19034                              |
| 077-303-07-11       | Watkins, Billy J.                                       | P.O. Box 51<br>Whiskeytown, CA 96095  |
|                     |   | 14412 Kennedy Memorial Dr.<br>Whiskeytown, CA 96095-0188<br>[Mark "Personal"] |
| 077-313-11-11       | Likens, Eugene Estate of c/o Lassen Co. Public Guardian | 720-A Richmond Road<br>Susanville, CA 96130                                   |
| 077-332-42-11       | Miner, Sheila M.  | P.O. Box 270822<br>Susanville, CA 96127                                       |
| 077-343-19-11       | Myers, Jeffery A. & Sandra L.                           | 35011 Goldstone Court<br>Yucaipa, CA 92399                                    |