



Lahontan Regional Water Quality Control Board

May 3, 2012

ESTES, KENNETH P & MARY L JT
1045 PAIUTE LANE
SUSANVILLE, CA 96130

NOTICE OF HEARING: CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

You recently received an Administrative Civil Liability Complaint (Complaint) regarding your property in the Spalding Tract, Eagle Lake, Lassen County. The Complaint proposes that the California Regional Water Quality Control Board, Lahontan Region (Water Board) impose liability on you for your alleged failure to comply with an Order of the Water Board. The Water Board will consider this allegation during its regularly scheduled meeting on July 11-12, 2012 in South Lake Tahoe.

Please read this Notice of Hearing carefully. You must respond by the dates in this Notice or the Water Board may not accept your response to the Complaint. A summary of these dates are as follows:

Table with 2 columns: DATE, NATURE OF THE SUBMITTAL. Rows include May 11, 2012 (Request for formal hearing) and June 15, 2012 (Submit all written evidence and response to the Complaint).

Nature of Hearing

The Water Board intends to conduct a hearing on the proposal to impose liability. Although these procedures provide an opportunity for you, your representatives or others who may have information pertinent to this matter to address the Water Board, they are intended to be less formal, excluding the opportunity to examine or cross-examine witnesses. You have the option to request that the Water Board conduct a hearing that includes the ability to call, question and cross-examine witnesses for this matter. You must submit this request to the Water Board Executive Officer no later than 5:00 p.m. on Friday, May 11, 2012. If you request a hearing with more formal procedures, the Water Board will designate parties. Designated parties may present evidence, must identify all witnesses and the subject matter they will testify about, and are allowed to cross-examine witnesses identified by other designated parties.

Prior to this hearing you will be provided with the evidence that is being put forward to justify the imposition of the liability. You will be given the opportunity to present a written response to the allegations made in the Complaint, including any additional evidence you want the

Water Board to consider, and to present an oral summary of that information to the Water Board at the July hearing.

The hearing (which is an adjudicative proceeding), will be governed by the regulations codified in Title 23, California Code of Regulations, Division 3. These regulations provide that, with certain exceptions, adjudicative proceedings will be conducted in accordance with sections 800-805 of the Evidence Code and section 11513 of Chapter 5 of the Government Code. (Other provisions of Chapter 5 of the Government Code do not apply to adjudicative proceedings before the Regional Water Boards). A copy of those regulations and Chapter 4.5 of the Administrative Procedures Act, section 11513 of the Government Code and sections 801-805 of the Evidence Code can be found at [http://www.waterboards.ca.gov/laws\\_regulations/](http://www.waterboards.ca.gov/laws_regulations/).

### Submittal of Evidence / Comments

As indicated above, you will have an opportunity to submit any written comments or evidence on the Complaint. This material must be submitted to the Water Board Executive Officer no later than 5:00 p.m. on Friday, June 15, 2012. You will receive the evidence that supports the issuance of the complaint no later than May 11, 2012.

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 either you or the Water Board Prosecution staff, 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 you 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, anyone 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 questions.

If the evidence / comments are less than 10 total pages, do not include any color copies, and all pages are 8½x11 inches in size, then you may submit one copy along with an electronic copy to the Water Board Executive Officer. If your submittal meets the above criteria and is less than 10 megabytes, you may submit the material electronically to the Water Board at [RB6-r6commentletter@waterboards.ca.gov](mailto:RB6-r6commentletter@waterboards.ca.gov) with the phrase “**Comment Letter – Spalding Complaint**” in the subject line. If your submittal does not meet these criteria, you must submit one original and 11 hard copies of the original (double sided and three-hole punched) and one electronic copy of the material.

### 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, Patty Kouyoumdjian, Executive Officer (effective May 14, 2012), and Kim Niemeyer, Staff Counsel. Members of the Prosecution Team are: Lauri Kemper, Assistant Executive Officer, Chuck Curtis, Supervising Engineer, Scott Ferguson, Senior Engineer, Lisa Scorallo, Engineering Geologist, David Boyers, Staff Counsel and Anne Carroll, 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 the members of the Water Board or the Advisory Team regarding this proceeding.

#### Ex Parte Communications

You and your representatives, any member of the Water Board Prosecution Team 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 Complaint between you, anyone representing you, any member of the Prosecution Team 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 others (if written) or made in a manner open to all others (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among you, your representative, the Prosecution Team or any interested person are not ex parte contacts.

If you have any questions on this Notice, please contact Harold Singer at (530) 542-5412 or [hsinger@waterboards.ca.gov](mailto:hsinger@waterboards.ca.gov). If after May 11, 2012, please contact Patty Kouyoumdjian at the same phone number or [pkouyoumdjian@waterboards.ca.gov](mailto:pkouyoumdjian@waterboards.ca.gov).



Harold Singer  
Executive Officer

Cc: Lauri Kemper, Assistant Executive Officer, Lahontan Water Board  
David Boyers, Office of Enforcement, State Water Board  
Anne Carroll, Office of Enforcement, State Water Board  
Chris Gallagher, General Manager/Spalding Community Services District  
Virginia Bruce/Spalding Community Services District  
Alan Jones, Director/Lassen County Environmental Health Department  
Kenneth Bunch/Lassen County Assessor  
Maurice Anderson/Lassen County Building Department