

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

**HEARING PROCEDURES
CONSIDERATION OF ADOPTION OF A
CEASE AND DESIST ORDER
TO**

**LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT, GRASS VALLEY
WASTEWATER TREATMENT PLANT, SAN BERNARDINO COUNTY**

HEARING SCHEDULED FOR MARCH 13-14, 2013

IMPORTANT

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.

- A. The California Regional Water Quality Control Board, Lahontan Region (Water Board) must receive the following information no later than 5:00 p.m. on Friday, **January 11, 2013**:
1. Written requests from persons requesting designated party status.
 2. Written objections to these hearing procedures.
- B. The Water Board must receive written objections to requests for designated party status no later than 5:00 p.m. on Friday, **January 18, 2013**.
- C. The Water Board must receive from the Prosecution Team submission of evidence, witness lists, including summary of proposed testimony and qualifications of any expert witness, no later than 5:00 p.m. on Wednesday, **January 23, 2013**.
- D. The Water Board must receive the following information no later than 5:00 p.m. on Tuesday, **February 12, 2013**:
1. Written non-evidentiary policy statements from interested persons.
 2. Written requests from designated parties or interested persons for additional time for presentation at the hearing.
 3. Submission of evidence, witness lists, including summary of proposed testimony and qualifications of any expert witness, from all designated parties, except the Prosecution Team.
 4. Written evidentiary objections (if any) to evidence and proposed witness testimony submitted by the Prosecution Team.
- E. The Water Board must receive from all of the designated parties (including Prosecution Team) written evidentiary objections (if any) to evidence or testimony submitted by all of the designated parties on February 12, 2013, no later than 5:00 p.m. on Wednesday, **February 20, 2013**.

- F. The Water Board must receive from the Prosecution Team, written rebuttal evidence or testimony no later than 5:00 p.m. on Thursday, **February 21, 2013**.
- G. The Water Board must receive from all of the other designated parties, besides the Prosecution Team, written evidentiary objections (if any) to rebuttal evidence submitted by the Prosecution Team no later than 5:00 p.m. on Friday, **March 1, 2013**.

Requirements for All Submittals

All submittals must be on 8½ x 11" size (including attachments and figures), must be in a legible font no smaller than 11-point size, and shall be submitted electronically in a searchable pdf format that does not exceed 10 megabytes in size and not more than 100 pages in length. 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 referenced, 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 designated parties, 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

The file size limit applies to each submittal in total, which means that one submittal cannot be made up of several parts submitted separately that when combined exceed the 10 megabyte and 100 page limit. Participants who would like to submit additional material in excess of the size limitations must submit their request to the Advisory Team no later than 5:00 p.m. on the business day that is least ten working days prior to the required submittal due date. Additional file size 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 the additional file size is necessary. Files submitted in excess of approved size limits will not be accepted.

In addition to the electronic original, 15 hard copies of each submittal must be sent to the Executive Officer by the due date specified above. Each hard copy must be three hole punched and all pages must be sized 8 ½ x 11." Each e-mail submittal must have the e-mail subject line, "Lake Arrowhead CSD CDO Hearing." In addition to submitting the information to the Executive Officer, all designated parties must provide a copy of the materials to the Primary Contacts for all other designated parties.

Background

On December 31, 2012, Assistant Executive Officer of the Water Board issued Lake Arrowhead Community Services District (CSD) a draft Cease and Desist Order for alleged violations at the CSD's Grass Valley wastewater treatment plant in San Bernardino County. The draft Cease and Desist order alleged that the CSD's facility had unauthorized releases of wastewater on several occasions during the months of January 2005, February 2005, January 2008, February 2010, and December 2010, and that these unauthorized discharges violated Board Order 6-89-110 and R6V-2009-0037. The Water Board will consider adopting the Cease and Desist Order during its regularly scheduled meeting on **March 13-14, 2013**, tentatively scheduled at Lake Arrowhead.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the proposed Cease and Desist Order. At the hearing, the Water Board will consider whether to adopt the proposed Order, modify it, or reject it. If it adopts an Order, then the Water Board will issue a Cease and Desist Order.

The public hearing on **March 13-14, 2013** 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 about **March 1, 2013**.

Hearing Procedures

The hearing will be conducted in accordance with these hearing procedures or as they 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 California Code of Regulations, title 23, section 648, subdivision (d), any procedure not provided by these Hearing Procedures is deemed waived. Chapter 5 of the Administrative Procedures Act (commencing with section 11500 of the Government Code) does not apply to this hearing, except as provided in these Hearing Procedures and the California Code of Regulations, title 23, section 648 subdivision (b).

The Water Board's Advisory Team must receive any objections to these hearing procedures no later than 5:00 p.m. on Friday, **January 11, 2013** or they will be considered waived. Procedural objections about the matters contained in this notice will not be entertained at the hearing. Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.

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. Both designated parties and interested persons may be asked to respond to clarifying questions from the Water Board, staff or others, at the discretion of the Water Board.

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

1. Water Board Prosecution Team
2. Lake Arrowhead Community Services District

Requesting Designated Party Status

Persons 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 5:00 p.m. on Friday, **January 11, 2013** to Patty Kouyoumdjian, Water Board Executive Officer and one copy to Kimberly Niemeyer, Advisory Team counsel, at the addresses provided below. The request shall 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), the contact information required of designated parties as provided below, and 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 5:00 p.m. on Friday, **January 18, 2013**.

Primary Contacts

For the Water Board (Advisory Team):

Originals and specified number of copies of all documents to:	And one copy to:
Patty Kouyoumdjian Executive Officer Regional Water Quality Control Board, Lahontan Region 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 Patty.Kouyoumdjian@waterboards.ca.gov v Phone (530) 542-5412 Fax (530) 544-2271	Kimberly Niemeyer Staff Counsel State Water Resources Control Board, Office of Chief Counsel 1001 I Street Sacramento, CA 95814 Kim.Niemeyer@waterboards.ca.gov Phone (916) 341-5547 Fax (916) 341-5199

For Water Board Staff (Prosecution Team):

One copy of all documents to both:	
Lauri Kemper Assistant Executive Officer Regional Water Quality Control Board, Lahontan Region 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 Lauri.Kemper@waterboards.ca.gov Phone (530) 542-5460 Fax (530) 544-2271	Julie Macedo Staff Counsel State Water Resources Control Board, Office of Enforcement 1001 I Street Sacramento, CA 95814 Julie.Macedo@waterboards.ca.gov Phone (916) 323-6847 Fax (916) 341-5896

One copy of all documents to:
Mark Veysey, Interim General Manager Lake Arrowhead Community Services District PO Box 700 Lake Arrowhead, CA 92352

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: Patty Kouyoumdjian, Executive Officer, Doug Smith, Supervising Engineering Geologist; Alan Miller, Senior Water Resources Control Engineer (WRCE); and Kimberly Niemeyer, Staff Counsel. Members of the Prosecution Team are: Lauri Kemper, Assistant Executive Officer; Chuck Curtis, Manager, Cleanup and Enforcement Division; Scott Ferguson, Senior WRCE; Mike Coony, WRCE; Mike Plaziak, Supervising Engineering Geologist; Jay Cass, Senior WRCE; Eric Taxer, WRCE; and Julie Macedo, Staff Counsel, State Water Resource Control Board, Office of Enforcement. 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 this matter 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: each designated party shall have a combined forty-five minutes (45) to present evidence, cross-examine witnesses, and provide a closing statement; and each interested person shall have five (5) 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 who would like additional time must submit their request to the Advisory Team no later than 5:00 p.m. on Tuesday, **February 12, 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 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 California Code of Regulations, title 23, 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.
4. The qualifications of each expert witness, if any.

In conformance with the procedures set out on page 2, the Prosecution Team must submit to Patty Kouyoumdjian, Water Board Executive Officer, an original and 15 hard copies, and one electronic copy (in searchable pdf format) all of the information identified above no later than 5:00 p.m. on Wednesday, **January 23, 2013**. In addition, one hard copy and one electronic copy should be sent to Kimberly Niemeyer, Staff Counsel, each primary contact for the Prosecution Team, and each primary contact(s) for other designated parties, as specified in the section above identifying primary contacts.

No later than 5:00 p.m. on Tuesday, **February 12, 2013**, the remaining designated parties shall submit an original, 15 hard copies, and one electronic copy (in searchable pdf format) of the information to Patty Kouyoumdjian, Water Board Executive Officer, in conformance with the procedure set out on page 2. In addition, one hard copy and one electronic copy should be sent to Kimberly Niemeyer, Staff Counsel, each primary contact for the Prosecution Team, and each primary contact(s) for other designated parties, as specified in the section above identifying primary contacts.

The Prosecution Team has the opportunity to submit rebuttal evidence or testimony. This material shall be submitted no later than 5:00 p.m. on Thursday, **February 21, 2013**. The original, 15 hard copies and one electronic copy (in searchable pdf format) of the material must be submitted to Patty Kouyoumdjian, Water Board Executive Officer, in conformance with the procedure set out on page 2. In addition, one hard copy and one electronic copy should be sent to Kimberly Niemeyer, Staff Counsel, each primary contact for the designated parties, as specified in the section above identifying 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 5:00 p.m. on Friday, **March 1, 2013**. If over 10 pages, including attachments, this information should be sent to Patty Kouyoumdjian in conformance with the procedure on page 2. If less than 10 pages, the non-evidentiary policy statements may be sent either in hard copy or electronically. Comments should also be sent to Kimberly Niemeyer, Staff Counsel, each primary contact for the Prosecution Team, and each primary contact(s) for other designated parties, as specified in the section above identifying primary contacts. Interested persons do not need to submit written comments 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 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 Water Board Advisory Team (original to Patty Kouyoumdjian, Executive Officer, and one copy to Kimberly Niemeyer, Staff Counsel) must receive all written objections to the evidence or testimony submitted by the Prosecution Team no later than 5:00 p.m. on Tuesday, **February 12, 2013**. Objections by the Prosecution Team and other designated parties to evidence or testimony submitted by designated parties the other designated parties must be received no later than 5:00 p.m. on **February 20, 2013**. Any objections to rebuttal evidence or testimony submitted by the Prosecution Team must be received no later than 5:00 p.m. on Friday, **March 1, 2013**. Written objections must also be sent to the other designated parties. 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 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, as early as practicable.

Evidentiary Documents and File

The Proposed Order and related evidentiary documents are on file and may be inspected or copied at the Water Board offices at 2501 Lake Tahoe Boulevard, South Lake Tahoe or 14440 Civic Drive, Suite 200, Victorville. 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 hearing procedures may be addressed to Patty Kouyoumdjian, Executive Officer, at (530) 542-5412 or Kimberly Niemeyer, Staff Counsel, at (916) 341-5547 or at the addresses shown above.



Patty Kouyoumdjian
Executive Officer

DATE: _____ December 31, 2012