



California Regional Water Quality Control Board Lahontan Region



Matthew Rodriques
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
Phone: (530) 542-5400 • Fax: (530) 544-2271
Internet: <http://www.waterboards.ca.gov/lahontan>

Edmund G. Brown Jr.
Governor

Date Distributed: August 25, 2011

Revised August 31, 2011 See Item Nos. 2 and 10

REVISED

MEETING AGENDA

September 14-15, 2011

**North Tahoe Events Center
Evergreen Suite
8318 N. Lake Blvd.
Kings Beach, CA**

Wednesday, September 14, 2011

Regular Meeting: 3:00 p.m.

Thursday, September 15, 2011

Regular Meeting continued: 8:30 a.m.

Note: A quorum of the Water Board will be dining on Wednesday, September 14, at 5:15 p.m. at Jason's Beachside Grille, 8338 North Lake Blvd., Kings Beach, CA. The Water Board will not be discussing anything related to the Board's authority during this dinner.

Supporting Documents:

Supporting documents for agenda items are posted on our website at least 10 days prior to the scheduled meeting. If you wish to be added to the interested parties list for a specific agenda item, please contact the staff person listed with the item in the agenda announcement. To view or download documents, go to www.waterboards.ca.gov/lahontan. (see note below for information on the timing for submitting comments).

Submittal of Written Material for Water Board Consideration:

Comments on individual items are welcome and encouraged. Written comments on an agenda item must be submitted on or before the due date listed in the hearing notice

California Environmental Protection Agency



associated with the agenda item. Hearing notices are distributed to persons who have indicated they want to receive information about a specific item and are posted on the Water Board's web site (www.waterboards.ca.gov/lahontan). For items that do not have a separate hearing notice with specific due dates, written comments must be submitted at least ten (10) days before the meeting. This allows time to distribute the material to Water Board members in advance of the meeting, providing the opportunity for the members to read and consider the information submitted. Pursuant to California Code of Regulations, Title 23, 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 California Code of Regulations, Title 23, 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.

The meeting room is accessible to people with disabilities. If you have special accommodations or language needs, please contact Amber Wike at least five days prior to the meeting date at (530) 542-5400 or awike@waterboards.ca.gov. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

General Meeting Information:

The following items are numbered for identification purposes only and will not necessarily be considered in this order. Public hearings will not be called to order prior to the time specified. If, due to time constraints, the Water Board is unable to consider all of the items scheduled for Wednesday, the item(s) not heard will be considered on Thursday, beginning at 8:30 a.m. All Board files, exhibits and agenda material pertaining to items on this agenda are hereby made a part of the record for the appropriate item.

Anyone wishing to present a Microsoft PowerPoint® presentation during the meeting, using the Water Board's projector, must provide the presentation to the Water Board on either a CD or via email at least three working days prior to the meeting. Please contact the staff person listed for the agenda item of interest.

REGULAR MEETING

Wednesday, September 14, 2011- 3:00 p.m.

INTRODUCTIONS

OTHER BUSINESS

1. **Administrative Civil Liability Penalty Calculator Demonstration** (Water Board staff will present the Administrative Civil Liability Penalty Calculator that was adopted as part of the 2010 Enforcement Policy. Staff will discuss the various factors that are part of the calculator and demonstrate how the calculator has been used in several different enforcement cases. This is an information item; the Water Board will not be asked to take any action.)(Scott Ferguson)

2. **Executive Officer's Report** (The Water Board will not be asked to take any formal action; however, it may provide direction to staff.) (Harold Singer)
 - **Discussion of Standing Items**
 - **Notification of Spills (Pursuant to Water Code section 13271, and Health and Safety Code section 25180.7)**
 - **Notification of Closure of Underground Storage Tank Cases (Pursuant to Article 11, Division 3, Chapter 16, title 23, California Code of Regulations)**
3. **Minutes** (The Water Board will consider adopting the minutes of the Regular Meeting of July 13-14, 2011, held in Barstow, CA) (Rebecca Phillips)
4. **CLOSED SESSION***
 - a. **Discussion of Significant Exposure to Litigation. Authority: Government Code section 11126, subdivision (e)(2)(B)(i).**
 - b. **Discussion to Decide Whether to Initiate Litigation. Authority: Government Code section 11126, subdivision (e)(2)(C)(i).**
 - c. **Discussion of Litigation: People of the State of California ex rel. California Regional Water Quality Control Board, Lahontan Region v. Thomas E. Erickson et al., El Dorado Superior Court Case No. SC20010089. Authority: Government Code section 11126, subdivision (e).**
 - d. **Discussion of Litigation: Atlantic Richfield Company v. State of California, State Water Resources Control Board, California Regional Water Quality Control Board, Lahontan Region, et al., Los Angeles County Superior Court Case No. BC380474. Authority: Government Code section 11126, subdivision (e).**
 - e. **Discussion of Litigation (Petition for Review of Lahontan Water Board Action Filed with the State Water Resources Control Board): Sierra Forest Legacy et al. v. Lahontan Regional Water Quality Control Board (SWRCB/OCC File No. A-2025). Authority: Government Code section 11126, subdivision (e).**
 - f. **Discussion of Litigation: Sarbjit S. Kang, an individual and Kang Property, Inc. v. California Regional Water Quality Control Board, Lahontan Region and California State Water Resources Control Board, El Dorado County Superior Court Case No. SC20090234. Authority: Government Code section 11126, subdivision (e).**

* At any time during the regular session, the Board may adjourn to a closed session to consider litigation, personnel matters, or to deliberate on a decision to be reached based upon the evidence introduced in the hearing. Discussion of litigation is within the attorney-client privilege and may be held in closed session. Authority: Government Code section 11126, subdivisions (a), (c), (3) and (e).

- g. Discussion of Litigation (Petition for Review of Lahontan Water Board Action Filed with the State Water Resources Control Board): In the Matter of the Petition of the California Department of Fish and Game for Review of Action by the California Regional Water Quality Control Board, Lahontan Region in Adopting Order No. R6V-2010-0016 Regarding Hot Creek Hatchery (SWRCB/OCC File No. A-2092). Authority: Government Code section 11126, subdivision (e).**
- h. Discussion of Litigation: Californians for Alternatives to Toxics, a California non-profit corporation, Wilderness Watch, a Montana non-profit corporation, the Friends of Silver King Creek, a California non-profit corporation, and Laurel Ames and Dr. Ann McCampbell, individuals v Lahontan Regional Water Quality Control Board and California Department of Fish and Game, Alpine County Superior Court Case No. C110311. Authority: Government Code section 11126, subdivision (e).**
- i. Discussion of Litigation (Petition for Review of Lahontan Water Board Action Filed with the State Water Resources Control Board): In the Matter of the Petition of the United State Department of Agriculture, Forest Service, Inyo National Forest for Review of Action by the California Regional Water Quality Control Board, Lahontan Region in Adopting Order No. R6T-2011-0009 Regarding Investigative Order for the United States Forest Service, Inyo National Forest, White Mountain Grazing Allotments (SWRCB/OCC File No. A-2151). Authority: Government Code section 11126, subdivision (e).**
- j. Discussion of Litigation (Petition for Review of Lahontan Water Board Action Filed with the State Water Resources Control Board): In the Matter of the Petition of Paul Ryken and the Estate of Nick Van Vliet for Review of Action by the California Regional Water Quality Control Board, Lahontan Region in Issuing Cleanup and Abatement Order Nos. R6V-2008-0034, R6V-2008-0034A2 and R6V-2008-0034A3 and in issuing Investigative Order No. R6V-2010-0028, all regarding the Desert View Dairy (SWRCB/OCC File Nos. A-1975, A-2089(a), A-2115, and A-2153). Authority: Government Code section 11126, subdivision (e).**
- k. Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).**

Wednesday, September 14, 2011- approximately 7:00 p.m.

5. PUBLIC FORUM

Any person may address the Water Board regarding a matter within the Water Board's jurisdiction that is not related to an item on this meeting agenda. Comments will generally be limited to five minutes, unless otherwise directed by the Chair. Any person wishing to make a longer presentation should contact the Executive Officer at least ten days prior to the meeting. Comments regarding matters that are under development for future meetings will be restricted. (See http://www.waterboards.ca.gov/lahontan/board_info/agenda/upcoming.shtml#top)

WASTE DISCHARGE REQUIREMENTS AND NPDES PERMIT

6. **Water Reclamation Requirements and Waste Discharge Requirements for South Tahoe Public Utility District, Discharge of Recycled Wastewater onto the Diamond Valley Ranch, Alpine County** (The Water Board will consider adopting new Water Reclamation Requirements for use of reclaimed water in Alpine County.) (Rob Tucker)
7. **Public Hearing: Updated Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for Stormwater/Urban Runoff Discharges from El Dorado County, Placer County, and the City of South Lake Tahoe within the Lake Tahoe Hydrologic Unit, Placer and El dorado Counties** (The Water Board will not be asked to take any formal action; however it may provide direction to staff.) (Robert Larsen)

OTHER BUSINESS

8. **Reports by Water Board Chair and Board Members**

Thursday, September 15, 2011- 8:30 a.m.

ENFORCEMENT ACTIONS

9. **Public Hearing: Consideration of the Issuance of Cease and Desist Orders for Multiple Property Owners for the Discharge or Threatened Discharge of Waste in Violation of a Discharge Prohibition Specified by the Water Quality Control Plan for the Lahontan Region and, Where Applicable, the Rescission of the Listed Cease and Desist Order, Spalding Tract, Eagle Lake, Lassen County** (The Water Board will hold a public hearing to receive testimony and non-evidentiary policy statements according to the hearing procedures issued August 5, 2011. Following the public hearing, the Water Board will consider adoption of individual Cease and Desist Orders for property owners in the Spalding Tract subdivision that discharge or threaten to discharge waste (wastewater from on-site wastewater disposal systems) in violation of a Basin Plan prohibition. Some of the Cease and Desist Orders also rescind Cease and Desist Orders that were adopted in 1991. The Water Board may adopt the proposed Cease and Desist Orders with or without modifications, or reject the proposed Cease and Desist Orders.) (Scott Ferguson)
10. **Rescission of Waiver of Waste Discharge Requirements**

Rescission of Waiver Filing a Report of Waste Discharges and Waiver of Waste Discharge Requirements for Vegetation Management Activities Regulated by the Tahoe Regional Planning Agency and Authorizing the Lahontan Water Board's Executive Office to Enter into a Memorandum of Understanding with the TRPA (Resolution No. R6T-2008-0038). (The Water Board will Consider Adopting a Resolution Rescinding the Subject Waiver) (Anne Holden)

ADJOURNMENT

Any person aggrieved by an action of the California Regional Water Quality Control Board, Lahontan Region that is subject to review as set forth in Water Code section 13320, subdivision (a), may petition the State Water Resources Control Board (State Water Board) to review the action. Any petition must be made in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the

date the action was taken, except that if the thirtieth day following the date the action was taken falls on a Saturday, Sunday, or state holiday the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulation applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Note: A listing of pending applications for Water Quality Certification pursuant to Section 401 of the Clean Water Act may be obtained by calling:

Northern Lahontan Basin:

Tobi Tyler in South Lake Tahoe at (530) 542-5435, ttyler@waterboards.ca.gov

Southern Lahontan Basin:

Patrice Copeland and Jan Zimmerman, in Victorville at (760) 241-6583, pcopeland@waterboards.ca.gov or jzimmerman@waterboards.ca.gov

The Regional Water Quality Control Board, Lahontan Region, has a home page that can be accessed on the Internet, at: <http://www.waterboards.ca.gov/lahontan>

The Lahontan Water Board will be considering many items during this meeting which may result in Board action or direction to staff. We encourage input from all people interested in a given item or issue, so that when we act, our decision is based on all available information. Although an oath is not administered in most of the proceedings before this Board, **we expect all statements made before this Board to be truthful with no attempts to mislead this Board by false statements, deceptive presentation or failure to include essential information.**

The Board encourages all people in or near a Board meeting to refrain from engaging in inappropriate conduct. Inappropriate conduct may include disorderly, contemptuous or insolent behavior, breach of peace, boisterous conduct, violent disturbance or other unlawful interference in the Board's proceedings. Such conduct could subject you to contempt sanctions by the superior court (Gov. Code § 11455.10).

The Board Chairperson may impose sanctions, including reasonable expenses and attorney's fees, on any party for bad faith actions, frivolous tactics or actions intended to cause unnecessary delay by a party or the party's attorney or representative (Gov. Code § 11455.30).

CALIFORNIA WATER QUALITY CONTROL BOARD LAHONTAN REGION

Main Office: 2501 Lake Tahoe Blvd., South Lake Tahoe, CA 96150 (530) 542-5400
Branch Office: 14440 Civic Dr., Suite 200, Victorville, CA 92392 (760) 241-6583

LAHONTAN WATER BOARD MEMBERS

Name	Location of Residence or Business	Appointment Category
Jack Clarke, Chair	Apple Valley	Water Supply
Don Jardine, Vice Chair	Markleeville	County Government
Mike Dispenza	Palmdale	Municipal Government
R. Keith Dyas	Rosamond	Industrial Water Use
Amy Horne, Ph.D.	Truckee	Rec., Fish and Wildlife
Peter C. Pumphrey	Bishop	Water Quality
Eric Sandel	Truckee	Water Quality
Vacant		Irrigated Agriculture
Vacant		Public

LAHONTAN WATER BOARD STAFF

Harold Singer Executive Officer	Lauri Kemper Assistant Executive Officer and Ombudsman	Kim Niemeyer Counsel to the Board	Amber Wike Office Technician
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South Lake Tahoe Office:	Chuck Curtis, Manager, Regulatory Compliance Division Scott Ferguson, Chief, Enforcement & Special Projects Unit Alan Miller, Chief, North Basin Regulatory Unit Chief, Leviathan Mine Unit (Vacant)
	Doug Smith, Manager, Planning and Restoration Division Richard Booth, Chief, TMDL/Basin Planning Unit Douglas Cushman, Chief, Non-Point Source Unit Tom Gavigan, Chief, North Basin Cleanup and Site Investigation Unit
Victorville Office:	Mike Plaziak, Manager, Southern Lahontan Watersheds Division Patrice Copeland, Chief, Land Disposal Unit Keith Elliott, Chief, South Basin Regulatory Unit Cindi Mitton, Chief, South Basin Cleanup and Site Investigation Unit

The primary responsibility of the Water Board is to protect the quality of the surface and groundwater within the Region for beneficial uses. The duty is carried out by formulating and adopting water quality plans for specific ground or surface water bodies; by prescribing and enforcing requirements on domestic and industrial waste dischargers, and by requiring cleanup of water contamination and pollution. Specific responsibilities and procedures of the Board are outlined in the Porter-Cologne Water Quality Control Act.

Regular meetings of the Water Board are normally held on the second Wednesday and Thursday of each month. Meeting locations vary but generally alternate between the north and south basins of the region.

Recordings are made of each Water Board meeting and are retained in the Water Board's office for two years. Anyone desiring copies should contact Amber Wike at (530) 542-5400 for the current fee schedule for copies.

NOTES

A. SEQUENCE OF AGENDA ITEMS

The items are numbered for identification purposes only and will not necessarily be considered in this order.

B. AVAILABILITY OF AGENDA MATERIAL

Details concerning these agenda items are available for public reference during working hours at the Board's offices. Copies of individual agenda items may be obtained at the Board's offices after 8:00 a.m. on the Friday, twelve days preceding the Board meeting. The staff will assist in answering questions.

C. UNCONTESTED ITEMS CALENDAR

Item numbers with an asterisk (*) are expected to be routine and noncontroversial. They will be acted upon by the Board at one time without discussion. If any Board member, staff member, or interested party requests discussion, the item will be removed from the Uncontested Calendar to be considered separately.

D. PETITION OF REGIONAL BOARD ACTION

Any person aggrieved by an action of the California Regional Water Quality Control Board, Lahontan Region that is subject to review as set forth in Water Code section 13320(a), may petition the State Water Resources Control Board (State Water Board) to review the action. Any petition must be made in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date the action was taken, except that if the thirtieth day following the date the action was taken falls on a Saturday, Sunday or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulation applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

E. HEARING RECORD EXHIBITS

Material presented to the Board as part of the testimony that is to be made part of the record must be left with the Board. This includes photographs, slides, chart, diagrams, etc.

F. CONTRIBUTIONS TO REGIONAL BOARD MEMBERS

All persons who actively support or oppose the adoption of waste discharge requirements or an NPDES permit before the Lahontan Water Board must submit a statement to the Board disclosing any contributions of \$250 or more to be used in a federal, state, or local election, made by the action supporter or opponent, or his or her agent, within the last 12 months to any Water Board member. All permit applicants and all persons who actively support or oppose adoption of a set of waste discharge requirements or an NPDES permit pending before the Water Board are prohibited from making a contribution of \$250 or more to any Board member for three months following a Water Board decision on the permit application.

G. ADDITIONAL CLOSED SESSION

At any time during the regular session, the Board may adjourn to a closed session to consider litigation, personnel matters, or to deliberate on a decision to be reached based upon evidence introduced in the hearing. Discussion of litigation is within the attorney-client privilege and may be held in closed session. Authority: Government Code section 11126, subdivisions (a), (c)(3) and (e).