

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

**HEARING PROCEDURES**

**CONSIDERATION OF ADOPTION OF AN ADMINISTRATIVE CIVIL LIABILITY  
ORDER FOR ARAMARK, EL DORADO COUNTY**

**WATER BOARD PUBLIC HEARING SCHEDULED FOR MAY 11-12, 2016**

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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 February 19, 2016, the Lahontan Water Board Prosecution Team mailed an Administrative Civil Liability Complaint (Complaint) to John Phillips, Fleet and Facilities Director with Aramark Sports and Entertainment Services, LCC and Travel Systems LLC, and to The Corporation Trust Company of Nevada, Registered Agent, regarding the Tahoe Queen sightseeing boat in South Lake Tahoe, El Dorado County. The Complaint alleges that Aramark Sports and Entertainment Services, LCC and Travel Systems LLC (collectively referred to as "Aramark" or "Discharger") violated the Clean Water Act, California Water Code, and waste discharge prohibitions specified by the *Water Quality Control Plan for the Lahontan Region*. The Complaint recommends imposing a \$4,983 liability against Aramark. For more information, see:

[http://www.waterboards.ca.gov/rwqcb6/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/rwqcb6/water_issues/programs/enforcement/)

**Purpose and Timing of Public Hearing**

The purpose of the public hearing is to consider relevant evidence and testimony regarding the Complaint. Following the hearing, the Lahontan Water Board will consider adopting the liability (as proposed in the Complaint or for a different amount, either higher or lower than proposed, but not to exceed the maximum liability provided for by law), rejecting it, or referring the matter to the California Attorney General.

The public hearing will be held during the regular meeting of the Lahontan Water Board on May 11-12, 2016. The public hearing will begin at a time and location as announced in the Lahontan Water Board meeting agenda. An agenda for the meeting will be available on the Lahontan Water Board's web page at [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan) no later than **10 days before the meeting**.

**Public Hearing Deadlines**

| <b>Deadline</b>   | <b>Who Submits?</b>                             | <b>Written Item</b>  |
|---|---|--|
| March 4, 2016, 14 days from Complaint Release Date 4pm    | Designated Parties and The Public               | Objections to the Hearing Procedures   |
| March 4, 2016, 14 days from Complaint Release Date, 4pm   | The Public                                      | Requests for Designated Party status   |
| March 4, 2016, 14 days from Complaint Release Date, 4pm   | Prosecution Team                                | Witness list, summaries of witness testimony, and referenced documents,  |
| March 11, 2016, 21 days after Complaint Release Date, 4pm | Designated Parties                              | Objections to requests for Designated Party status   |
| April 4, 2016, 45 days from Complaint Release Date, 4pm   | Designated Parties, except the Prosecution Team | Technical and legal arguments/briefs, supporting evidence and documents, and witness lists, and summaries of witness testimony |
| April 11, 2016, 52 days from Complaint Release Date, 4pm  | Designated Parties and The Public               | Requests for additional time at the hearing  |
| April 11, 2016, 52 days from Complaint Release Date, 4pm  | The Public                                      | Statements pertaining to the allegations   |
| April 18, 2016, 59 days from Complaint Release Date, 4pm  | Prosecution Team                                | Rebuttal evidence or testimony   |
| April 25, 2016, 66 days from Complaint Release Date, 4pm  | Designated Parties, except the Prosecution Team | Objections to Prosecution Team rebuttal evidence or testimony  |

The above-listed deadlines apply to those who want to participate in the Lahontan Water Board's May 11-12, 2016 public hearing. The Lahontan Water Board's Prosecution Team and Aramark (**Designated Parties**) will have an opportunity to submit evidence, written testimony, technical briefs, and/or legal briefs prior to the public hearing. **The Public**, which includes, but is not limited to, any interested agency, organization, public official, or private citizen, will also have an opportunity to submit written comments or statements prior to the public hearing. The table, above, identifies when the Designated Parties and the Public are required to submit their written materials in preparation for the public hearing.

### **Instructions for All Submittals**

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

- Technical and legal arguments/briefs
- Supporting evidence and documents, including witness lists and summaries of witness testimony
- 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, 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 Aramark, and documents that can be downloaded from the Lahontan Water Board's website regarding this case:

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

### **Party-Specific Instructions**

**For the Public** – Please submit your information to the Lahontan Water Board's Executive Assistant, Sue Genera. Ms. Genera works at the Lahontan Water Board's South Lake Tahoe office and she can be reached at [Sue.Genera@waterboards.ca.gov](mailto:Sue.Genera@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, "Aramark ACL Hearing." Ms. Genera will distribute your information to the Lahontan Water Board members, the Lahontan Water Board's Advisory Team, and to the Designated Parties.

**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) to Ms. Genera. The originals, electronic copies, and 15 hard copies of each submittal must be received by Ms. Genera by the deadlines specified above. An additional copy (electronic or hard copy) of each submittal must also be sent to the Advisory Team's Staff Counsel and to the other Designated Parties and received by the deadlines specified

above. Each email or hard copy submittal must have in the subject line, "Aramark ACL Hearing." Ms. Genera will distribute Prosecution Team submittals to the Lahontan Water Board members and the Lahontan Water Board's Advisory Team.

**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 Ms. Genera by the deadlines specified above. An additional copy (electronic or hard copy) of each submittal must also be submitted to the Advisory Team's Staff Counsel and the Prosecution Team Primary Representatives identified, below, and received by the deadlines specified above. Each e-mail or hard copy submittal must have in the subject line, "Aramark ACL Hearing." Ms. Genera will distribute your submittals to the Lahontan Water Board members and the Lahontan Water Board's Advisory Team.

### **Objections to Hearing Procedures**

The public hearing 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 Lahontan Water Board may be found at California Code of Regulations, title 23, sections 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.

Ms. Genera must receive any objections to this set of hearing procedures **no later than 4:00 p.m. on March 4, 2016** or they will be considered waived.

### **Public Hearing Participants**

Participants in these public hearings are identified as either "Designated Parties" or "Public" or "Advisory Team." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. The Public includes all parties (e.g., the private citizens, public officials, agencies, organizations, interest groups), other than those identified as Designated Parties or Advisory Team. The Public may present non-evidentiary policy statements (statements or comments), but may not cross-examine witnesses and are not subject to cross-examination. The Advisory Team provides impartial technical and legal advice to the Lahontan Water Board members following the public hearing. Designated Parties and the Public may be asked to respond to questions from Lahontan Water Board members and the Advisory Team.

The following participants are hereby identified as Designated Parties in this proceeding:

1. Lahontan Water Board Prosecution Team
2. Aramark

### **Requesting Designated Party Status**

Persons who wish to participate in the public hearing as a Designated Party must submit their request for Designated Party status in writing (with copies of the request sent to the other Designated Parties). Such requests must be received by Ms. Genera **no later than 4:00 p.m. on March 4, 2016**. The request shall: (1) include an explanation of the basis for the request (e.g., how the issues to be addressed in the hearing and the potential actions by the Lahontan Water Board affect the person requesting the status change); and, (2) 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 Ms. Genera **no later than 4:00 p.m. on March 11, 2016**.

### **Primary Representatives**

#### **For the Lahontan Water Board's Advisory Team**

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| Patty Z. Kouyoumdjian, Executive Officer<br>Lahontan Regional Water Quality Control<br>Board<br>2501 Lake Tahoe Blvd.<br>South Lake Tahoe, CA 96150<br><a href="mailto:Patty.Kouyoumdjian@waterboards.ca.gov">Patty.Kouyoumdjian@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:Kim.Niemeyer@waterboards.ca.gov">Kim.Niemeyer@waterboards.ca.gov</a><br>Phone: (530) 341-5549<br>Fax: (916) 341-5199 |
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#### **For the Water Board's Prosecution Team**

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| Scott Ferguson, Supervising WRC<br>Engineer<br>Lahontan Regional Water Quality Control<br>Board<br>2501 Lake Tahoe Blvd.<br>South Lake Tahoe, CA 96150<br><a href="mailto:Scott.Ferguson@waterboards.ca.gov">Scott.Ferguson@waterboards.ca.gov</a><br>Phone: (530) 542-5432<br>Fax: (530) 542-5470 | John Prager, Staff Counsel<br>State Water Resources Control Board,<br>Office of Enforcement<br>1001 I Street<br>Sacramento, CA 95814<br><a href="mailto:Prager.John@waterboards.ca.gov">Prager.John@waterboards.ca.gov</a><br>Phone: (916) 341-5542 |
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**For Aramark**

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| John Phillips, Fleet and Facilities Director<br>Aramark Sports and Entertainment<br>Services, LCC<br>Travel Systems LLC<br>PO Box 12309<br>Zephyr Cove, NV 89448<br><a href="mailto:Phillips-john@aramark.com">Phillips-john@aramark.com</a> | The Corporation Trust Company of<br>Nevada, Registered Agent<br>701 South Carson Street, Suite 200<br>Carson City, Nevada 89701 |
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**Separation of Functions**

As indicated above, Lahontan Water Board staff participating in this proceeding has been separated into two teams to help ensure the fairness and impartiality of this proceeding. The Lahontan Water Board's Prosecution Team includes staff who will act in a prosecutorial role by presenting evidence for consideration by the Lahontan Water Board. The Lahontan 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; Doug Smith, Supervising Engineering Geologist; and Kim Niemeyer, Staff Counsel.

Prosecution Team members are: Lauri Kemper, Assistant Executive Officer; John Prager, Staff Counsel; Scott Ferguson, Supervising WRC Engineer; Catherine Pool, Senior WRC Engineer; and Eric Taxer, WRC Engineer.

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 Lahontan Water Board in other, unrelated matters, but they are not advising the Lahontan Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with Lahontan 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 Lahontan 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 Order between a Designated Party or the Public on one hand, and a Lahontan 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 the Public themselves are not ex parte contacts.

### **Hearing Time Limits**

Please note that the scheduled public hearing is designed for the Designated Parties to simply summarize the previously submitted evidence/technical and legal arguments. This means that all evidence and/or arguments must be submitted by the deadlines specified in these Hearing Procedures, so the Designated Parties do not need to reintroduce any evidence. At the hearing, the Designated 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: each Designated Party shall have a combined 45 minutes to present an overview of its evidence, to present and cross-examine witnesses, and to provide a closing statement; and each Public participant shall have 10 minutes to present non-evidentiary statements. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants (Designated Parties and the Public) who would like additional time must submit their request in writing to Ms. Genera with copies to the Designated Parties. Such requests must be received by Ms. Genera **no later than 4:00 p.m. on April 11, 2016**. 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 Lahontan Water Board to consider. Evidence and exhibits already in the Lahontan 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, and a summary of each witness' proposed testimony.
4. The qualifications of each expert witness, if any.

The Prosecution Team has indicated that it has submitted its evidence as part of the Complaint. The Prosecution Team has yet to submit its Witness List, Summaries of Witness Testimony, and List of Documents to be incorporated by Reference. The Prosecution Team shall submit this information according to the Instructions for All

Submittals, above. This information must be received by Ms. Genera **no later than 4:00 p.m. on March 4, 2016.**

Aramark shall submit their information (described in Nos. 1 - 4, above) according to the Instructions for All Submittals, above. This information must be received by Ms. Genera **no later than 4:00 p.m. on April 4, 2016.**

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 Ms. Genera **no later than 4:00 p.m. on April 18, 2016.**

The Public who would like to submit written non-evidentiary statements pertaining to the allegations are encouraged to submit them to Ms. Genera as early as possible, but **no later than 4:00 p.m. on April 11, 2016.** Public members do not need to submit written comments in order to speak at the public hearing.

In accordance with California Code of Regulations, title 23, section 648.4, the Lahontan Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Lahontan Water Board may exclude evidence and testimony that is not submitted in accordance with these hearing procedures. Excluded evidence and testimony will not be considered by the Lahontan 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 the Public intend to present at the hearing must be submitted to Ms. Genera 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 Designated Parties other than the Prosecution Team shall submit all written objections to the Prosecution Team's evidence and testimony as part of the Designated Parties' information due **April 4, 2016.** The Prosecution Team shall submit all written objections to the other Designated Parties' evidence and testimony as part of the Prosecution Team's rebuttal due **April 18, 2016.** The Designated Parties other than the Prosecution Team shall submit their written objections to the Prosecution Team's rebuttal evidence and testimony according to the Instructions for All Submittals, above. This information must be received by Ms. Genera **no later than 4:00 p.m. on April 25, 2016.** 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.

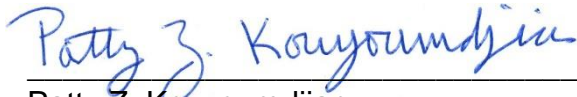
Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to Ms. Genera, with a copy to all other Designated Parties, as early as practicable.

### **Evidentiary Documents and File**

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Lahontan 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 this public hearing. 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 Lahontan Water Board Chair.

**Questions**

Please send any questions regarding this public hearing to Ms. Genera at (530) 542-5414 ([Sue.Genera@waterboards.ca.gov](mailto:Sue.Genera@waterboards.ca.gov)).



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Patty Z. Kouyoumdjian  
Executive Officer

DATE: February 19, 2016