

## Lahontan Regional Water Quality Control Board

Date Distributed: December 26, 2018

### MEETING AGENDA

The Lahontan Regional Water Board (Water Board) is conducting this meeting using teleconference equipment that will permit Water Board members to participate from two locations shown below:

Lahontan Water Board Annex, Hearing Room  
971 Silver Dollar Avenue  
South Lake Tahoe, CA 96150

Mojave Water Agency  
13846 Conference Center Drive  
Apple Valley, CA 92307

**Wednesday, January 16, 2019, 1:00 p.m.**  
Regular Meeting

### **General Meeting Information:**

The following items are numbered for identification purposes only and will not necessarily be considered in this order. The meeting will not be called to order prior to the time specified. All Water Board files, exhibits, and agenda materials pertaining to items on this agenda are hereby made a part of the record for the appropriate item.

Comments on individual agenda items are welcome. All persons desiring to address the Water Board are requested to fill out a speaker card. If you are considering speaking or submitting written materials.

### **Adoption of Uncontested Calendar:**

Items denoted by (✕) are expected to be routine and non-controversial and will be proposed for the uncontested calendar. The Water Board will act on these items at one time without discussion. If any Water Board member or person requests discussion, the item may be removed from the uncontested calendar to be considered separately. Requests to have an item removed from the uncontested calendar can be made to the Executive Officer ten (10) days in advance of the meeting by emailing the Executive Assistant; or the request can be made to the Water Board at the meeting before the vote on the uncontested calendar.

### **REGULAR MEETING: Wednesday, January 16, 2019 at 1:00 p.m.**

#### **Call to Order and Introductions**

1. **Public Forum** – A public forum is held at the beginning of each general meeting where persons may speak on matters within the Water Board's jurisdiction that are not related to a specific agenda item or currently pending before the Water Board. Comments regarding pending or impending adjudicatory matters will not be allowed.

2. [Minutes](#) - The Water Board will consider adopting the minutes of the Regular Meeting of November 14 - 15, 2018 in Apple Valley, California.
3. [Reports by Water Board Chair and Water Board Members](#) - The Water Board members will provide updates to the Water Board and public on events and activities of interest.
4. [Executive Officer's Report](#) - The Executive Officer will provide an update to the Water Board and public on key actions and activities in the Lahontan region, including the items below. This is an informational item and no formal action is requested, though the Water Board members may give direction to staff. (Patty Z. Kouyoumdjian)
  - Standing Items
  - Executive Officer's Report
  - 3<sup>rd</sup> Quarter Violations Report
  - Notification of Spills (Pursuant to Water Code section 13271, and Health and Safety Code section 25180.7)
5. [Fremont Valley Groundwater Basin Salt and Nutrient Management Plan](#) - The Water Board will consider adopting the Final Fremont Valley Groundwater Basin Salt and Nutrient Management Plan. (Tiffany Steinert)
6. [Amendment to National Pollutant Discharge Elimination System Permit and Priority Pollutant Monitoring Requirements for the California Department of Fish and Wildlife; Fish Springs Fish Hatchery](#) - The Water Board will consider adopting an Amendment to Fish Springs Fish Hatchery's NPDES Permit altering the reporting limits for Priority Pollutant Metals. (Robert Tucker)
7. [Workshop - Draft Basin Plan Amendment for Mojave River Hydrologic Unit Beneficial Use Designations](#) - Staff will present the key elements of and basis for a draft Basin Plan Amendment that would add two beneficial use designations (BIOL and RARE) to specific reaches of the Mojave River and its tributaries and removes the COLD beneficial use designation for the Mojave River below the Lower Narrows. This is an informational workshop and no formal action is requested, though Water Board members may give direction to staff. (Jennifer Watts)
8. [Annual Election of Water Board Chairperson and Vice-Chairperson](#) - The Water Board members will elect a Water Board Chairperson and Vice-Chairperson for 2019.
9. [Closed Session](#)<sup>1</sup>
  - 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. To deliberate on a decision to be reached based upon evidence introduced in a hearing. Authority: Government Code section 11126, subdivision (c)(3).
  - d. Discussion of Litigation: In re Molycorp, Inc., et al., Debtors, Chapter 11, Case No. 15-11357 (CSS), United States Bankruptcy Court, District of Delaware. Authority: Government Code section 11126, subdivision (e).
  - e. Discussion of Litigation. People Ex Rel. Department of Fish and Wildlife; Regional Water Quality Control Board, Lahontan Region; and Department of Parks and Recreation v. Gloria Ching Lai Ma et al., Mono County Superior Court Case No. CV170080. Authority: Government Code section 11126, subdivision (e).

---

<sup>1</sup> At any time during the regular session, the Water 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).

- f. Discussion of Litigation: Fox Capital Management Corporation v. Lahontan Regional Water Quality Control Board, El Dorado County Superior Court, Case No. SC20170189. Authority: Government Code section 11126, subdivision (e).
- g. Discussion of Litigation: Seven Springs Limited Partnership v. Lahontan Regional Water Quality Control Board, El Dorado County Superior Court, Case No. SC2018061. Authority: Government Code section 11126, subdivision (e).
- h. Discussion of Litigation: In re Genon Energy, Inc., et al., Debtors, Chapter 11, Case No. 17-33695 (DRJ), United States Bankruptcy Court, Southern District of Texas Houston Division. Authority: Government Code section 11126, subdivision (e).
- i. Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

## **Adjournment**

### **AGENDA PROCEDURES AND NOTES**

The Water Board will be considering many items during this meeting which may result in Water 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 Water Board, we expect all statements made before this Water Board to be truthful with no attempts to mislead this Water Board by false statements, deceptive presentation, or failure to include essential information.

The Water Board encourages all people in or near a Water 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 Water Board's proceedings. Such conduct could subject you to contempt sanctions by the superior court (Gov. Code § 11455.10).

The Water 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).

## **SEQUENCE OF AGENDA ITEMS**

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

## **AVAILABILITY OF AGENDA MATERIAL**

Details concerning these agenda items are available for public reference during working hours at the Water Board's offices and on the Water Board's website [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan). Copies of individual agenda items may be obtained at the Water Board's offices after 8:00 a.m. on the Friday, twelve days preceding the Water Board meeting. The staff will assist in answering questions.

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 persons 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](http://www.waterboards.ca.gov/lahontan). (See note below for information on the timing for submitting comments.)

## **ADDITIONAL CLOSED SESSION**

At any time during the regular session, the Water 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).

## ACCESSIBILITY

The meeting room is accessible to people with disabilities. If you have special accommodations or language needs, please contact the Executive Assistant, at least five days prior to the meeting date. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

## 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 or currently pending before the Water Board. Comments regarding matters that are under development for future meetings or not within the Water Board's regulatory authority will be restricted. Comments regarding pending or impending adjudicatory matters will also not be allowed.

Comments will generally be limited to five (5) minutes. Any person wishing to make a longer presentation should request an extension from the Executive Officer at least fifteen (15) days prior to the meeting, and if you want written materials to be provided to the Water Board, you are responsible for providing twelve (12) copies to the Executive Assistant at least ten (10) days prior to the meeting.

## ORAL COMMENTS AND PRESENTATIONS

The purpose of the meeting is to provide the Water Board with an opportunity to receive testimony and information from concerned and affected persons and to make decisions after considering the evidence presented. In order to give everyone an opportunity to be heard, a time limit for oral comments may be imposed on any agenda item. Comments will generally be limited to five (5) minutes. Interested persons are encouraged to submit their comments in writing by the applicable due date and use time for oral comments to summarize those concerns. Any person wishing to make a longer presentation should request an extension from the Executive Officer at least ten (10) days prior to the meeting.

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 flash drive or via email at least ten (10) working days prior to the meeting. Please contact the staff person listed for the agenda item of interest or the Executive Assistant.

## WRITTEN COMMENTS

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 associated with the agenda item. Hearing notices are posted on the Water Board's web site at: [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan).

For items on the agenda 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 to the Executive Assistant, Katrina Fleshman ([katrina.fleshman@waterboards.ca.gov](mailto:katrina.fleshman@waterboards.ca.gov)). 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. If you would like written materials to be provided to the Water Board in hard copy, you are responsible for providing twelve (12) copies to the Executive Assistant at least ten (10) days before the meeting.

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 California Code of Regulations, Title 23, section 647 et seq., and 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 is available upon request. Hearings before the Water Board are not conducted pursuant to Government Code section 11500 et seq.

### HEARING RECORD EXHIBITS

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

### EX PARTE REQUIREMENTS

An ex parte communication is a communication to a Water Board member from any person, about a pending or impending matter, that occurs in the absence of other parties and without notice and opportunity for them to respond. The California Government Code prohibits the Water Board members from engaging in ex parte communications on permitting, enforcement, and other “quasi-adjudicatory” matters. A communication about a pending adjudicative matter, received during a public forum, or during the public meeting when the item is not noticed, may violate the ex parte prohibition. Ex parte communications are allowed on pending general orders (such as general waste discharge requirements, general waivers, and general Clean Water Act section 401 water quality certifications) subject to the disclosure requirements of Water Code section 13287 (for further information and disclosure forms, please visit [https://www.waterboards.ca.gov/lahontan/publications\\_forms/forms/docs/lahontan\\_disclosure011813.pdf](https://www.waterboards.ca.gov/lahontan/publications_forms/forms/docs/lahontan_disclosure011813.pdf)).

The ex parte rules are intended to provide fairness, and to ensure that the Water Board’s decisions are transparent, based on the evidence in the administrative record, and that evidence is used only if stakeholders have had the opportunity to hear and respond to it. A Water Board member who has engaged or been engaged in a prohibited ex parte communication will be required to publicly disclose the communication on the record and may be disqualified from participating in the proceeding. For more information, please look at the ex parte questions and answers document found at [www.waterboards.ca.gov/laws\\_regulations/docs/exparte.pdf](http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf).

### CONTRIBUTIONS TO WATER BOARD MEMBERS

All persons who actively support or oppose the adoption of waste discharge requirements or an NPDES permit before the Water Board must submit a statement to the Water 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 Water Board member for three months following a Water Board decision on the permit application.

### PETITION OF REGIONAL WATER BOARD ACTION

Any person aggrieved by an action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### WATER QUALITY CERTIFICATION

A listing of pending applications for Water Quality Certification pursuant to Section 401 of the Clean Water Act, may be obtained by contacting the staff below:

**Northern Lahontan Basin:**

Robert Tucker in South Lake Tahoe at (530) 542-5467, [robert.tucker@waterboards.ca.gov](mailto:robert.tucker@waterboards.ca.gov)

**Southern Lahontan Basin:**

Jan Zimmerman, in Victorville at (760) 241-7376, [jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov)

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

**RECORDINGS**

Recordings are made of each Water Board meeting and are retained on the Water Board website at:  
<http://www.waterboards.ca.gov/lahontan>

**LAHONTAN WATER BOARD MEMBERS**

California Water Code section 13201 provides for the Governor to appoint seven members to the Regional Water Quality Control Board. Each member shall reside or have a principal place of business within the region. Appointments are subject to confirmation by the state Senate.

Name	From	Term Expires
Peter C. Pumphrey, Chair	Bishop	9/30/19
Don Jardine, Vice Chair	Markleeville	9/30/19
Kimberly Cox	Helendale	9/30/22 Pending Senate Conformation
Keith Dyas	Rosamond	9/30/20
Amy Horne, PhD.	Truckee	9/30/22 Pending Senate Conformation
Eric Sandel	Truckee	9/30/21
Vacant		

**LAHONTAN WATER BOARD CONTACTS**

Patty Z. Kouyoumdjian, Executive Officer  
 Doug Smith, Assistant Executive Officer  
 Elizabeth Beryt, Counsel to the Water Board  
 Katrina Fleshman, Executive Assistant

To reach the Executive Officer, please contact her Executive Assistant, Katrina Fleshman, via email at [katrina.fleshman@waterboards.ca.gov](mailto:katrina.fleshman@waterboards.ca.gov) or call (530) 542-5414.

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 groundwater 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.