



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

Date Distributed: June 19, 2009

MEETING AGENDA

July 8-9, 2009

Lake Tahoe Community College
Board Room
One College Drive
South Lake Tahoe, CA 96150

Wednesday, July 8, 2009

Regular Meeting:	3:00 p.m.
Dinner Break:	5:00 p.m.
Regular Meeting continued:	7:00 p.m. approximately

Thursday, July 9, 2009 (if needed)

Regular Meeting:	8:30 a.m.
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Note: A quorum of the Regional Board will be dining on Wednesday, July 8, 2009 at 5:00 p.m. at Scusa! on Ski Run, 1142 Ski Run Blvd., South Lake Tahoe.

Supporting Document: 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 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).

California Environmental Protection Agency



Recycled Paper

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 Title 23 California Code of Regulations, 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 Title 23, California Code of Regulations, 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.

General Meeting Information: The meeting room is accessible to people with disabilities. If you have special accommodations or language needs, please contact Laurie Applegate at least five days prior to the meeting date at (530) 542-5414 or LApplegate@waterboards.ca.gov. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

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, July 9, 2009 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, July 8, 2009 – 3:00 p.m.

OTHER BUSINESS

1. **[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 Section 13271, California Water Code and Section 25180.7, California Health and Safety Code)**

--- **Notification of Closure of Underground Storage Tank Cases (Pursuant to Article 11, Division 3, Chapter 16, Title 23, California Code of Regulations)**

2. CLOSED SESSION **

- a. **Discussion of Significant Exposure to Litigation. Authority: Government Code Section 11126(e)(2)(B)(I).**
- b. **Discussion to Decide Whether to Initiate Litigation. Authority: Government Code Section 11126(e)(2)(c)(I).**
- c. **Discussion of Litigation filed by the State of California and the Regional Water Quality Control Board, Lahontan Region, v. Glen R. Hammond and Limited Partners, Kern County Superior Court Case No. 235695. Authority: Government Code Section 11126(e).**
- d. **Discussion of Litigation: Regional Water Quality Control Board, Lahontan Region v. Mary Ann Ferguson, et al., Placer County Superior Court Case No. T CV 1002. Authority: Government Code Section 11126(e).**
- e. **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(e).**
- f. **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(e).**
- g. **Discussion of Litigation: Osborne v. State of California Lahontan, Victor Valley Wastewater Reclamation Authority and Does 1 to 100, San Bernardino County Superior Court Case No. 805631. Authority: Government Code section 11126(e).**
- h. **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(e).**
- i. **Discussion of Litigation: Sierra Forest Legacy et al. v. California Regional Water Quality Control Board, Lahontan Region, et al., El Dorado County Superior Court Case No. SC20090123. Authority: Government Code section 11126(e).**
- j. **Discussion of Personnel Matters. Authority: Government Code Section 11126(a).**

** 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(a), (c)(3) and (e).

Wednesday, July 8, 2009 – Approximately 7:00 p.m.**INTRODUCTIONS****3. 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)

4. MINUTES

Minutes of the Regular Meeting of June 10-11, 2009, in South Lake Tahoe, CA (Laurie Applegate)

5. ADOPTION OF UNCONTESTED CALENDAR

Items denoted by (*) are expected to be routine and non-controversial. The Water Board will act on these items at one time without discussion. If any Water Board member, staff member, or interested party requests discussion, the item will be removed from the Uncontested Calendar to be considered separately. Requests to have an item removed from the uncontested calendar can be made in advance of the meeting by writing to the Water Board or by calling the Water Board's Executive Officer or the request can be made to the Water Board at the meeting on the Wednesday before the vote on the Uncontested Calendar.

PLANS AND POLICIES

6. **[Public Hearing - Recommendations to the State Water Resources Control Board Regarding the Clean Water Act Section 303\(d\) List of Impaired Surface Water Bodies.](#)** (The Water Board will consider adopting a resolution recommending changes to the Section 303(d) List for the Lahontan Region. No formal action will be taken on staff's assessment of non-impaired waters under Clean Water Act Section 305(b), but public testimony on the assessment will be accepted.) (Judith Unsicker)

ENFORCEMENT ACTIONS

7. **[Consideration of an Administrative Civil Liability Order for Sarbjit S. Kang and Kang Property, Incorporated for Violations of \(1\) California Water Code Section 13267 and \(2\) California Water Code Section 13304 - Swiss Mart Gas Station, El Dorado County.](#)** (The Water Board will consider accepting, modifying or rejecting an Administrative Civil Liability Order in the amount of \$460,300. Written comments from interested parties were due June 12, 2009.) (Lisa Dernbach)

OTHER BUSINESS

- *8. **U.S. Forest Service, Lake Tahoe Basin Management Unit, Blackwood Creek Stream and Floodplain Restoration Project, El Dorado County** (The Water Board will be asked to grant an exemption to a discharge prohibition contained in the Water Quality Control Plan for the Lahontan Region in order to conduct a stream and floodplain restoration project.) (George Cella)
- *9. **U.S. Forest Service, Lake Tahoe Basin Management Unit, High Meadow Restoration Project, El Dorado County** (The Water Board will be asked to grant an exemption to a discharge prohibition contained in the Water Quality Control Plan for the Lahontan Region in order to conduct a stream and meadow restoration project.) (Douglas Cushman)
10. **Reports by Chair and Board Members** (Water Board members may discuss communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction. The Board may provide direction to staff; however, there will be no voting or formal action taken.)

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(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:

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

For the Southern Lahontan Basin, Cindi Mitton in Victorville at (760) 241-7413, cmitton@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>

* see Item 5

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 (Govt. C Sec 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 (Govt. C Sec 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 Drive, 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
Mike Dispenza, Vice Chair	Palmdale	Municipal Government
James Charlton	Palmdale	Public
R. Keith Dyas	Rosamond	Industrial Water Use
Amy Horne, Ph.D.	Truckee	Rec., Fish and Wildlife
Don Jardine	Markleeville	County Government
Eric Sandel	Truckee	Water Quality
Vacant		Irrigated Agriculture
Vacant		Water Quality

LAHONTAN WATER BOARD STAFF

Harold J. Singer Executive Officer	Robert Dodds Assistant Executive Officer and Ombudsman	David Coupe Counsel to the Board	Laurie Applegate Executive Assistant
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South Lake Tahoe Office: Chuck Curtis, Manager, Cleanup and Enforcement Division
Chein Kao, Chief, Leviathan Mine Unit
Scott Ferguson, Chief, Enforcement & Special Projects Unit
Richard Booth, Chief, Cleanup and Site Investigation Unit

Lauri Kemper, Manager, North Lahontan Watersheds Division
Alan Miller, Chief, North Basin Regulatory Unit
Doug Smith, Chief, TMDL Unit
Douglas Cushman, Chief, Non-Point Source Unit

Victorville Office: Mike Plaziak, Manager, Southern Lahontan Watershed Division
Cindi Mitton, Chief, South Basin Regulatory Unit
Patrice Copeland, Chief, Land Disposal 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 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.

The purpose of the monthly meeting is to provide the Board with testimony and information from concerned and affected parties and make decisions after considering the evidence presented. A public forum is held at each regular meeting where any person may address the Board on any matter within the jurisdiction of the Board, but may not be related to any item on the agenda or scheduled for a future meeting.

The Board welcomes information on pertinent problems, but comments at the meeting should be brief and directed to specifics of the case to enable the Board to take appropriate action. Whenever possible, lengthy testimony should be presented to the Board in writing and only a summary of pertinent points presented verbally. Written material should be submitted no later than the Monday, ten days prior to the Board meeting, or according to the deadlines specified in the Notice of Public Hearing for the agenda item.

Recordings are made of each Board meeting and these tapes/ CDs are retained in the Board's office for two years. Anyone desiring copies should contact Laurie Applegate at (530) 542-5414, 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 (a), (c)(3) and (e).