

## Lahontan Regional Water Quality Control Board

Date Distributed: April 21, 2017

### MEETING AGENDA

The Board is conducting this meeting using teleconference equipment that will permit Board members to participate from the two locations shown below:

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

Lahontan Regional Water Quality Control Board  
15095 Amargosa Road, Bldg 2, Suite 210  
Large Conference Room  
Victorville, California 92394

**Wednesday, May 10, 2017, 7:00 p.m.**

**Thursday, May 11, 2017, 8:30 a.m.**

A quorum of the Water Board may be dining on Wednesday, May 10, 2017, at 5:30 p.m. at Scusa's Restaurant, 2543 Lake Tahoe Blvd. South Lake Tahoe, California 96150. The Water Board will not be discussing anything related to the Water 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](http://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](http://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 to the Executive Officer's Executive Assistant, Kathleen Otermat ([kathleen.otermat@waterboards.ca.gov](mailto:kathleen.otermat@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. 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 may be found at [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 Kathleen Otermat, Executive Assistant, at least five days prior to the meeting date at (530) 542-5414 or [kathleen.otermat@waterboards.ca.gov](mailto:kathleen.otermat@waterboards.ca.gov). TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

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

Items denoted by (x) 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 at (530) 542-5412, or the request can be made to the Water Board at the meeting on the Wednesday before the vote on the Uncontested Calendar.

### **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. It is likely that some of the items scheduled for Wednesday afternoon will carry over into the evening session. 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. All Board files, exhibits, and agenda materials 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 ten working days prior to the meeting. Please contact the staff person listed for the agenda item of interest or the Executive Assistant for the Public Forum agenda item.

## **REGULAR MEETING: Wednesday, May 10, 2017 at 7:00 p.m.**

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

#### **1. 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 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. Comments regarding matters that are under development for future meetings or not within the Water Board's regulatory authority will be restricted. (See: [http://www.waterboards.ca.gov/lahontan/board\\_info/agenda/upcoming.shtml#top/>](http://www.waterboards.ca.gov/lahontan/board_info/agenda/upcoming.shtml#top/>).)

2. **Minutes** - The Water Board will consider adopting the minutes of the Regular Meeting of April 19-20, 2017 in Barstow, California. (Kathleen Otermat)
3. **Public Hearing - Consideration of a Stipulated Agreement with the United States Forest Service (USFS), Lake Tahoe Basin Management Unit to Comply with the Water Quality Control Plan for the Lahontan Region; Meeks Bay Marina, El Dorado County, WDID 6A090050000; Cease and Desist Order No. R6T-2017-0013** - The Water Board's Prosecution Team and the USFS will present a stipulated agreement to the Water Board and request acceptance. Water Board will be asked to accept, reject or request the parties to modify the stipulated agreement or direct Water Board staff to take a different action. (Eric Taxer)
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. 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: 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).
  - e. Discussion of Litigation: In re Molycorp, Inc., et al., Debtors, Chapter 11, Case No. 15-11357 (CSS), United States Bankruptcy Court, District of Delaware.
  - f. Discussion of Litigation: In re Atna Resources, et al., Debtors, Chapter 11, Case No. 15-22848, United States Bankruptcy Court, District of Colorado.
  - g. Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

## Adjournment

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\* 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).

**REGULAR MEETING: Thursday, May 11, 2017 at 8:30 a.m.****Call to Order and Introductions****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 or currently pending before the Water Board. 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. Comments regarding matters that are under development for future meetings or not within the Water Board's regulatory authority will be restricted. (See: <[http://www.waterboards.ca.gov/lahontan/board\\_info/agenda/upcoming.shtml#top](http://www.waterboards.ca.gov/lahontan/board_info/agenda/upcoming.shtml#top)>.)

6. **California Department of Fish and Wildlife: Mojave River Fish Hatchery, San Bernardino County** - Water Board will consider adopting renewal of an NPDES Permit for Mojave River Fish Hatchery. (Eric J. Taxer)

7. **Development of a Nonpoint Source Permit for Federal Lands** - Water Board staff are developing a permit to address nonpoint source pollution on federal lands managed by the USFS and Bureau of Land Management. This is an informational item and no formal action is requested, though the Water Board members may give direction to staff. (Laurie Scribe)

8. **Climate Change Staff Report** - Water Board staff will present findings from the 2016 Climate Change Survey, summarize 2015-2016 Water Board workshops to solicit stakeholder input, and discuss climate change actions required by existing laws, policies, or Water Board actions underway. The staff report will guide development of the Water Board's Climate Change Adaptation and Mitigation Strategy and future public workshops. This is an informational item and no formal action is requested, though the Water Board members may give direction to staff. (Scott C. Ferguson)

9. **Status Report - Local Agency Management Program (LAMP) Development** - Staff will share its public comments to local agencies during LAMP development and discuss elements of some sample LAMPs. A range of approaches proposed by local agencies will be presented and discussed. This is an informational item and no formal action is requested, though the Water Board members may give direction to staff. (Mike Coony)

**10. Reports by Water Board Chair and Board Members****11. Executive Officer's Report**

The Executive Officer will provide an update to Water Board 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, Executive Officer)

- Standing Items
- Executive Officer's Report
- Notification of Spills (Pursuant to Water Code section 13271, and Health and Safety Code section 25180.7)

**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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

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).

**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	9/30/18
Keith Dyas	Rosamond	9/30/20
Amy Horne, PhD.	Truckee	9/30/18
Eric Sandel	Truckee	9/30/17
Vacant		9/30/17

**LAHONTAN WATER BOARD STAFF**

Patty Z. Koumdjian, Executive Officer  
 Lauri Kemper, Assistant Executive Officer and Ombudsman  
 Elizabeth Beryt, Counsel to the Board,  
 Kathleen Otermat, Clerk of the Board, Executive Assistant

**South Lake Tahoe Office:**

Scott Ferguson, Manager, Regulatory Compliance Division  
Cathe Pool, Chief, Enforcement & Special Projects Unit  
Alan Miller, Chief, North Basin Regulatory Unit

Doug Smith, Manager, Planning and Restoration Division  
Daniel Sussman, Chief, TMDL/Basin Planning Unit  
Douglas Cushman, Chief, Non-Point Source Unit  
Vacant, Chief, North Basin Cleanup and Site Investigation Unit

**Victorville Office:**

Patrice Copeland, Manager Southern Lahontan Watersheds Division  
Vacant, Chief, Land Disposal Unit  
Jeheil Cass, Chief, South Basin Cleanup and Site Investigation Unit  
Vacant, Chief for the Department of Defense & Site Cleanup Program 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 on the Lahontan Regional Water Quality Control Board website at: <http://www.waterboards.ca.gov/lahontan/>.

**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 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.

**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.

**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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### 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.

### 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.

### 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).

### **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:

Alan Miller in South Lake Tahoe at (530) 542-5430

[alan.miller@waterboards.ca.gov](mailto:alan.miller@waterboards.ca.gov)

#### Southern Lahontan Basin:

Patrice Copeland and Jan Zimmerman, in Victorville at (760) 241-6583,

[patrice.copeland@waterboards.ca.gov](mailto:patrice.copeland@waterboards.ca.gov) or [jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@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>