



California Regional Water Quality Control Board Lahontan Region



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Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

Date Distributed: November 18, 2011

MEETING AGENDA

December 6-7, 2011

**Embassy Suites Hotel
Flying Cloud Room
4130 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150**

Tuesday, December 6, 2011

Regular Meeting: 1:00 p.m.

Wednesday, December 7, 2011

Regular Meeting Continued: 8:30 a.m.

Note: A quorum of the Water Board will be dining on Tuesday, December 6, 2011, at 5:15 p.m. at Echo Lounge Restaurant inside the Embassy Suites Hotel. 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 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

California Environmental Protection Agency



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 Tuesday, the item(s) not heard will be considered on Wednesday, 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

Tuesday, December 6, 2011- 1:00 p.m.

INTRODUCTIONS

NPDES PERMIT

1. ***Public Hearing - Updated Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for Storm Water/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 may consider adopting the updated Waste Discharge Requirements/NPDES Permit. Comments on this Updated Permit are due by 5:00 p.m. on November 30, 2011. Depending on the nature of the comments received, the Water Board may defer action on this Updated Permit to a future Water Board meeting. If the Water Board defers action, it may provide direction to its staff.) (Robert Larsen)

OTHER BUSINESS

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**
 - **Executive Officer's Report**
 - **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)**
 - **Quarterly Violations Report**

Tuesday, December 6, 2011- approximately 7:00 p.m.

OTHER BUSINESS**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** (The Water Board will consider adopting the minutes of the Regular Meeting of October 12, 2011, held in Victorville, CA) (Rebecca Phillips)
5. **Reports by Water Board Chair and Board Members**
6. **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).**

* 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).

- 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).**
- 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, December 7, 2011 – 8:30 a.m.

BASIN PLANNING

7. *Public Hearing - Consideration to Adopt Proposed Amendment to the Water Quality Control Plan for the Lahontan Region to Replace the Pesticide Water Quality Objective with a Regionwide Pesticide Waste Discharge Prohibition with Exemption Criteria for Aquatic Pesticide Use and Certify Related Draft Substitute*

Environmental Documentation (The Water Board will consider adoption of the proposed amendment and certification of the environmental documentation. The Water Board may consider additional changes to the proposed amendment, consistent with its general purpose. Proposed changes are based on public comments received. The written comment period closed on November 14, 2011.) (Daniel Sussman/Mary Fiore-Wagner)

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).