

Lahontan Regional Water Quality Control Board

Date Distributed: December 20, 2017

MEETING AGENDA

The Board is conducting this meeting at location shown below:

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

Wednesday, January 10, 2018, 7:00 p.m.
Regular Meeting

Thursday, January 11, 2018, 8:00 a.m.
Tour of U.S. Borax Mine

A quorum of the Water Board may be dining on Wednesday, January 10, 2018, at 5:30 p.m. at Mama Carpino's, 22010 US Highway 18, Apple Valley, CA 92307. The Water Board will not be discussing anything related to the Water Board's authority during this dinner.

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. 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.

Comments on individual agenda items are welcome. All persons desiring to address the Board are requested to fill out a speaker card. If you are considering speaking or submitting written materials, please consult the notes at the end of the agenda.

Adoption of Uncontested Calendar:

Items denoted by (x) 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 interested party 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 in advance of the meeting by writing to the Water Board or by calling the Water Board's Executive Officer via her Executive Assistant, Kathleen Otermat at (530) 542-5414, or the request can be made to the Water Board at the meeting before the vote on the uncontested calendar.

Please refer to the Board Agenda Procedures and Notes detailed after the agenda items.

PETER C. PUMPHREY, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

REGULAR MEETING: Wednesday, January 10, 2018 at 7:00 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 Board's jurisdiction that are not related to a specific agenda items or currently pending before the Water Board.
2. **Minutes** - The Water Board will consider adopting the minutes of the Regular Meeting of November 15-16, 2017 in South Lake Tahoe, California. (Kathleen Otermat)
3. **Considering approval of Local Agency Management Program for the Town of Apple Valley** – This item recommends the Water Board approve a Local Agency Management Program for the Town of Apple Valley. (Mike Coony)
4. **Considering approval of Local Agency Management Program for the City of Hesperia** This item recommends the Water Board approve a Local Agency Management Program for the City of Hesperia. (Mike Coony)
5. **Amended Waste Discharge Requirements - Board Order No. R6V-2015-0057-A1 [Proposed] For U.S. Borax, Inc., Rio Tinto Minerals, Clean Energy Fuels Company, Boron Facility, Kern County** - The Water Board will consider adopting amended Waste Discharge Requirements to authorize additional engineered alternative liner systems for the reclamation pond and the boric acid pond surface impoundments. (Christina Guerra)
6. **Status Updates on Water Board's Perchlorate Investigation and Cleanup Project and the City of Barstow's Nitrate Groundwater Contamination** - This item provides a summary of the Water Board's effort to address a separate, but now co-mingled groundwater perchlorate plume and the City of Barstow's groundwater nitrate cleanup project. The Water Board will not be asked to take any formal action; however, it may provide direction to staff. (Ghasem Pour-ghasemi and Alonzo Poach)
7. **Reports by Water Board Chair and Board Members** - The Water Board members will provide updates to the Water Board and public on events and activities of interest.
8. **Executive Officer's Report** - The Executive Officer will provide an update to 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, 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)
9. **Election of 2018 Chair/Vice Chair**
10. **Closed Session***
 - a. Discussion of Significant Exposure to Litigation. Authority: Government Code section 11126, subdivision (e)(2)(B)(i).

* 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).

- 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).
- h. 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).
- i. 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).

Adjournment

TOUR: Thursday, January 11, 2018 at 8:00 a.m.

U.S. Borax Mine, Rio Tinto Minerals, Boron Operation 8:00 a.m. to 1:00 p.m.

Tour Description: Water Board and the public are invited to attend a tour of Rio Tinto Minerals, U.S. Borax, Boron Facility to hear Rio Tinto personnel explain some of the unique challenges of operating one of the largest open-pit mining operations in the United States. The Tour will begin at the Visitors Center, followed by an onsite tour of the various types of processing and waste management units (the Reclamation [R] Ponds and Boric Acid Process [BAP] Ponds), a stop at the pit overlook to discuss operating challenges, and then head back at the Visitors Center for a self-guided tour and an opportunity to collect mineral samples before leaving the site.

RSVP: Please provide your name and contact information to confirm your reservation by 4:00 p.m. on January 3, 2018, to Rebecca Phillips at

Rebecca.Phillips@Waterboards.ca.gov or (760) 241-7306. Because the tour involves access to an active mining operation, attendees will have to complete a health and safety video and provide their full name and driver's license number (including state of issue). Rio Tinto personnel will require a signed self-certification letter that the health and safety training video has been completed prior to the tour. Additional details will be provided to those who RSVP.

Space is limited.

What to Wear: Weather can be highly variable from the morning to the afternoon. Comfortable clothing with layers for warmth and sun protection is recommended. Hats and sunglasses are advised. Because the tour will enter operational areas within the mine site, sturdy hiking or "work" boots are **required**. Hard hats, safety vests, and eye protection will also be required, and will be provided for the tour.

Food Accommodations: The tour will end at approximately 1:00 p.m. The closest food accommodations are located at Kramer Junction/Four Corners, which is located at the intersection of U.S. Route 395 and State Route 58.

Where to Meet: Meet at the Springhill Suites by Marriot in Hesperia at 8:00 a.m., on Mariposa Road off Main Street, Hesperia. We will plan to carpool with state vehicles. Based on level of attendance, some individuals may need to provide their own transportation. We intend to return to the Spring Hill Suites by Marriot in Hesperia by 2:15 p.m.

Board Agenda Procedures and Notes

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).

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 and on the Board website www.waterboards.ca.gov/lahontan. 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.

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.)

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).

ACCESSIBILITY

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. 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 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 ten (10) 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.)

ORAL COMMENTS AND PRESENTATIONS

The purpose of the meetings is to provide the Water Board with an opportunity to receive testimony and information from concerned and affected parties 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 CD 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 for the Public Forum agenda item.

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 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 Board Clerk, Kathleen Otermat (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. 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 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.

EX PARTE REQUIREMENTS

If a proceeding is pending or impending before a Water Board for the issuance of general waste discharge requirements, a categorical waiver, or a general 401 certification, board members may communicate with the public and government officials about the pending order. Special

disclosure requirements apply to communications that involve certain persons with an interest in the proceeding. If any other adjudicative proceeding is pending or impending before a Water Board (such as an individual waste discharge order or enforcement matter), ex parte communications with Water Board's members regarding an issue in that proceeding are prohibited. A communication about a pending adjudicative matter, received during a public forum or during the public meeting, may violate the ex parte prohibition. Such ex parte communications will be restricted.

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.

PETITION OF REGIONAL BOARD ACTION

Any person aggrieved by an action of the California Regional Water Quality Control Board, Lahontan Region 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 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:

Alan Miller in South Lake Tahoe at (530) 542-5430, alan.miller@waterboards.ca.gov

Southern Lahontan Basin:

Patrice Copeland and Jan Zimmerman, in Victorville at (760) 241-6583, patrice.copeland@waterboards.ca.gov or 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>

RECORDINGS

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>

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	9/30/21
Vacant		9/30/17

LAHONTAN WATER BOARD CONTACTS

Patty Z. Kouyoumdjian, Executive Officer
 Doug Smith, Assistant Executive Officer
 Elizabeth Beryt, Counsel to the Board
 Kathleen Otermat, Clerk of the Board, Executive Assistant

To reach the Executive Officer, please contact her Executive Assistant, Kathy Otermat, via email at kathleen.otermat@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 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.