

---

## Lahontan Regional Water Quality Control Board

Date Distributed: August 26, 2020

### MEETING AGENDA

***Video and Teleconference Meeting During COVID-19 Emergency:*** As a result of the COVID-19 emergency and the Governor's Executive Orders to protect public health by limiting public gatherings and requiring social distancing, this meeting will occur solely via remote presence. Links for the meeting, including a phone call option, will be posted on our website at [https://www.waterboards.ca.gov/lahontan/board\\_info/remote\\_meeting/](https://www.waterboards.ca.gov/lahontan/board_info/remote_meeting/)

The Lahontan Regional Water Quality Control Board (Water Board) is conducting this meeting on **Wednesday, September 16, 2020, 9:00 a.m.** as:

#### **Video and Teleconference Meeting Only**

No Physical Meeting Location

(Authorized by and in furtherance of  
Executive Orders N-29-20 and N-33-20.)

- For those who only wish to watch the meeting, the customary webcast remains available at <https://cal-span.org/static/meetings-RWQCB-LAHO.php> and should be used UNLESS you intend to comment.
- For those who wish to comment on an agenda item or are presenting to the Water Board, additional information about participating telephonically or via the remote meeting solution is available here:  
[https://www.waterboards.ca.gov/lahontan/board\\_info/remote\\_meeting/](https://www.waterboards.ca.gov/lahontan/board_info/remote_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. 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 (✕) 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 in advance of the meeting by emailing to the Board Clerk at [katrina.fleshman@waterboards.ca.gov](mailto:katrina.fleshman@waterboards.ca.gov) or by calling the Water Board's Executive Officer via her Executive Assistant, Katrina Fleshman at (530) 542-5414.

## **REGULAR MEETING: Wednesday, September 16, 2020 at 9:00 a.m.**

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

#### **1. 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. 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).
- e. 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).
- f. Discussion of Litigation. In re PG&E Corporation, et al., Debtors, Chapter, Case No. 19-30088, United States Bankruptcy Court, San Francisco Division. Authority: Government Code section 11126, subdivision (e).
- g. Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

- 2. 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.

---

<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).

3. **Minutes** – The Water Board will consider adopting the minutes of the Regular Meeting of June 10, 2020.
4. **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.
5. **Executive Officer's Report** – The Acting 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 Water Board members may give direction to staff. (Mike Plaziak).
  - a. Notification of Spills (Pursuant to Water Code section 13271, and Health and Safety Code section 25180.7)
6. **Proposed Amendment to The Water Quality Control Plan for The Lahontan Region (Basin Plan) Adding Definitions for Three New Beneficial Uses - Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB)** – The Water Board will consider a proposed Resolution adopting an amendment to the Basin Plan to incorporate the definitions for the three new beneficial uses of CUL, T-SUB, and SUB. This amendment is a first step toward completing a Basin Plan Triennial Review priority to protect Tribal cultural practices and traditional uses of waters by California Native American Tribes, subsistence fishing by California Native American Tribes, and subsistence fishing by other communities and individuals. (Cindy Wise)
7. **Clean Water Funding Programs** – The Water Board will be given an overview of the various water quality and drinking water financial assistance programs provided by the State Water Board's Division of Financial Assistance. This is an informational item and no formal action is requested, though the Water Board members may give direction to staff. (Leslie Laudon)

## **Adjournment**

## GENERAL PROCEDURES

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.

### 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

To view or download documents available on the public website, go to <https://www.waterboards.ca.gov/lahontan/>. Documents not available on the public website may be requested by contacting [lahontan@waterboards.ca.gov](mailto:lahontan@waterboards.ca.gov) (See note below for information on the timing for submitting comments.)

### Accessibility

If you have special accommodations or language needs, please contact Katrina Fleshman, Executive Assistant, at least ten days prior to the meeting date at (530) 542-5414 or [katrina.fleshman@waterboards.ca.gov](mailto:katrina.fleshman@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 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 not be allowed.

Information about participating telephonically or via the remote meeting solution is available here: [https://www.waterboards.ca.gov/lahontan/board\\_info/remote\\_meeting/](https://www.waterboards.ca.gov/lahontan/board_info/remote_meeting/). 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, please contact Katrina Fleshman, Executive Assistant, at least ten (10) days prior to the meeting date at (530) 542-5414 or [katrina.fleshman@waterboards.ca.gov](mailto:katrina.fleshman@waterboards.ca.gov)

### 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, must provide the presentation to Katrina Fleshman, Executive Assistant at least ten (10) working days prior to the meeting at [katrina.fleshman@waterboards.ca.gov](mailto:katrina.fleshman@waterboards.ca.gov).

Information about participating telephonically or via the remote meeting solution is available here: [https://www.waterboards.ca.gov/lahontan/board\\_info/remote\\_meeting/](https://www.waterboards.ca.gov/lahontan/board_info/remote_meeting/)

### 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 website](#).

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.

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 and why 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.

### 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. The public is encouraged to contact Water Board staff to determine whether a matter is a pending or impending adjudicatory matter. 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. Further [information and disclosure forms](#) are located on the Water Board’s website.

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 located on the Water Board’s website.

### Contributions to Regional 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 Water Board website 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: [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan).

Recordings

[Recordings](#) are made of each Water Board meeting and are retained on the Water Board website.

**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	9/30/23
Don Jardine, Vice-Chair	Markleeville	9/30/23
Kimberly Cox	Helendale	9/30/22
Keith Dyas	Rosamond	9/30/20
Amy Horne, PhD.	Truckee	9/30/22
Eric Sandel	Truckee	9/30/21
Vacant		

**LAHONTAN WATER BOARD CONTACTS**

Mike Plaziak, Acting Executive Officer  
 Elizabeth Beryt, Counsel to the Water Board  
 Katrina Fleshman, Executive Assistant

To reach the Acting Executive Officer, please contact his 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 Water Board are outlined in the Porter-Cologne Water Quality Control Act.