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## Lahontan Regional Water Quality Control Board

### MINUTES

**January 12-13, 2022**

The Lahontan Regional Water Quality Control Board (Water Board)  
conducted this meeting using  
Video and Teleconference as shown below:

**Video and Teleconference Meeting Only**  
No Physical Meeting Location  
(Authorized by Government Code Section 11133)

#### Water Board Members

Peter C. Pumphrey, Chair, Chalfant	Kimberly Cox, Helendale
Amy Horne, Ph.D., Truckee	Essra Mostafavi, Bishop
Keith Dyas, Rosamond	

#### State Water Board

Elizabeth Beryt, Office of Chief Counsel      Nichole Morgan, State Water Board Liaison

#### Water Board Staff

Mike Plaziak, Executive Officer	Scott Ferguson, Supervising WRC Engineer
Ben Letton, Assistant Executive Officer	Patrice Copeland, Supervising Engineering Geologist
Robert Tucker, Sr. WRC Engineer	Andrew Jensen, Environmental Program Mgr.
Doug Cushman, Sr. WRC Engineer	Russell Norman, WRC Engineer
Tiffany Ratz, WRC Engineer	Mary Fiore-Wagner, Sr. Environmental Scientist
Katrina Fleshman, Executive Assistant	Laurie Scribe, Sr. Environmental Scientist

[View the full Agenda and listen to the audio of this meeting](#)

**REGULAR MEETING: Wednesday, January 12, 2022, @ 10:00 a.m.**

#### **CALL TO ORDER AND INTRODUCTIONS**

Chair Pumphrey called the meeting to order at 10:03 a.m. and discussed procedures to adhere to the Governor's Executive Order during this COVID-19 emergency, the meeting will be video and teleconference only with no in person attendance. Chair Pumphrey gave direction to the public that wish to speak.

Chair Pumphrey introduced the Water Board Members, Water Board staff and State Water Board staff.

## 1. PUBLIC FORUM

No Public Forum

## 4. REPORTS BY WATER BOARD (Report by Water Board Liaison given before item #2 presentation)

Water Board Liaison, Nicole Morgan, gave an update to the Water Board.

- Drought conditions - stating water storage is still below normal. January 2022 an emergency order was issued to continue to conserve water.
- State Board Workshops - Gave update on the January 4<sup>th</sup> State Board workshop and upcoming workshops,
- 303D list for the 2020 through 2022 California integrated report - The proposed staff report summary, comments and responses. The state will hold a meeting to consider adoption of the California clean water act, section 303D list portion of the 2020 through 2022 integrated report on January 19<sup>th</sup>.
- Budget – On January 10<sup>th</sup>, Governor announced his proposed budget. Combating climate changes, including fighting wildfires.

## 2. TAHOE KEYS PROPERTY OWNERS ASSOCIATION, TAHOE KEYS LAGOONS AQUATIC WEED CONTROL METHODS TEST, SOUTH LAKE TAHOE.

### a. Resolution for Certification of the California Environmental Quality Act Final Environmental Impact Report for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test

Water Board Staff, Rob Tucker, Sr. WRC Engineer, recommended the Water Board adopt a resolution certifying a Final Environmental Impact Report. The Final Environmental Impact Report is required in order for the Water Board to consider granting an exemption to the aquatic pesticide discharge prohibition contained in the Water Quality Control Plan for the Lahontan Region.

Jim Good, Principal Associate, Environmental Science Associates, gave a presentation on the environmental impacts analysis and mitigation measures for the California Environmental Quality Act (CEQA) Environmental Impact Report/Environmental Impact Statement (EIR/EIS) Alternatives identified in the Final EIR/EIS for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test (CMT).

Water Board Staff, Mr. Tucker, gave a presentation on the Resolution for Certification of the California Environmental Quality Act Final Environmental Impact Report for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test.

Attorney, Elizabeth Beryt, provided a “Change Sheet 1” to 2a, and read the change to the Water Board as follows:

The following section on Page 2 of the Proposed Resolution would be removed:

*“THEREFORE, BE IT RESOLVED THAT*

*1. The Lahontan Water Board finds on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and the attached Final EIR/EIS reflects the Lahontan Water Board’s independent judgment and analysis.*

*2. The Lahontan Water Board hereby certifies the Final EIR/EIS for the Project.”*

The following language would be added to Page 2 of the Proposed Resolution:

*“THEREFORE, BE IT RESOLVED THAT:*

- 1. The Lahontan Water Board finds on the basis of the whole record before it, that there is substantial evidence that the project with implementation of the mitigation measures described in the Final EIR would not result in any significant effects on the environment.*
- 2. The Lahontan Water Board hereby certifies the Final EIR has been completed in compliance with CEQA.*
- 3. The Lahontan Water Board hereby certifies that it has reviewed and considered the information in the Final EIR.*
- 4. The Lahontan Water Board hereby certifies that the Final EIR reflects the independent judgment and analysis of the Lahontan Water Board.”*

#### COMMENTS BY THE WATER BOARD

Water Board members asked clarifying questions. No direction by the Water Board.

**b. Resolution for Granting an Exemption to the Aquatic Pesticide Discharge Prohibition in the Water Quality Control Plan for the Lahontan Region for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test**

Water Board Staff, Rob Tucker, Sr. WRC Engineer, recommended the Water Board adopt a resolution granting an exemption to the aquatic pesticide discharge prohibition contained in the Water Quality Control Plan for the Lahontan Region.

Water Board Staff, Mr. Tucker, gave a presentation on the Resolution for Granting an Exemption to the Aquatic Pesticide Discharge Prohibition in the Water Quality Control Plan for the Lahontan Region for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test.

#### COMMENTS BY THE WATER BOARD

Water Board members asked clarifying questions. No direction by the Water Board.

**c. Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test**

Water Board held a public hearing to receive testimony and public comment and to consider adopting an individual NPDES permit for residual aquatic herbicides, rhodamine dye, and lanthanum-modified clay to surface waters within the Tahoe Keys Lagoons and Lake Tallac.

Water Board Staff, Russell Norman, WRC Engineer, recommended the Water Board adopt the Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test. Water Board Staff, Mr. Norman, gave presentation on the Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test.

**COMMENTS BY THE WATER BOARD**

Water Board members asked clarifying questions. No direction by the Water Board.

**d. Mitigation Monitoring and Reporting Program for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test**

Water Board staff, Anna Garcia, Sr. Engineering Geologist-Specialist, recommended the Water Board adopt a Mitigation Monitoring and Reporting Program. The Mitigation and Monitoring Program is intended to fulfill the California Environmental Quality Act requirement to develop a monitoring and reporting program for ensuring mitigation measures identified in the Final Environmental Impact Report are implemented.

Water Board Staff, Ms. Garcia, gave a presentation on the Mitigation Monitoring and Reporting Program for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test.

**COMMENTS BY THE WATER BOARD**

Water Board members asked clarifying questions. No direction by the Water Board.

**WATER BOARD TOOK BREAK FROM 12:25PM TO 1PM****DISCHARGER COMMENTS**

- Dave Peterson, Tahoe Keys Property Owners Association (TKPOA) Board President, gave a presentation and spoke on behalf of TKPOA regarding the Control Methods Test (CMT).
- Rick Lind, President of Sierra Ecosystem Associates, continued the TKPOA presentation on the history of the aquatic weeds management, and TKPOA compliance with 2014 Waste Discharge Requirements (WDR) and urgency for scientific comparison of test methods.
- Dr. Lars Anderson continued the TKPOA presentation on the strategy, scope and key components of the CMT and Monitoring Program.
- Dave Peterson, TKPOA Board President, continued the TKPOA presentation summarizing the basis for approval of the Final EIR/EIS, Basin Plan Exemption, and National Pollutant Discharge Elimination System (NPDES) Permit.

**COMMENTS BY THE WATER BOARD**

Water Board members asked clarifying questions. No direction by the Water Board.

**PUBLIC COMMENTS**

- Joanne Marchetta, Executive Director, from Tahoe Regional Planning Agency (TRPA) discussed the collaborative process for developing the CMT, the significant AIS threat the Tahoe Keys Lagoons presents to Lake Tahoe, and the urgency for moving the CMT forward to obtain information necessary to develop a long-term integrated remedy for AIS in the Tahoe Keys Lagoons.
- Elise Fett, from Elise Fett & Associates, Ltd., gave a presentation titled "Stopping Tahoe Keys Weeds at the Source" focusing on the need to address the conditions supporting AIS in the Tahoe Keys Lagoons and further evaluating

non-herbicide AIS control methodologies before approving the use of aquatic herbicides.

- Toby Tyler, representing the Sierra Club, gave a presentation on objections to the Proposed Basin Plan Prohibition Exemption and Proposed NPDES Permit for the CMT.
- Jason Flanders, from ATA Law Group, representing the Sierra Club, gave further presentation on objections to the Final EIR/EIS, Proposed Basin Plan Prohibition Exemption, and Proposed NPDES Permit for the CMT.
- Jesse Patterson, Chief Strategy Officer, representing League to Save Lake Tahoe, gave a presentation on their mission "*To protect and restore the environmental health, sustainability and scenic beauty of the Lake Tahoe Basin. We focus on water quality and its clarity for the preservation of a pristine Lake for future generations*". Mr. Patterson further discussed the League's support of the CMT and its evaluation of both herbicide and non-herbicide control methodologies.
- David Blau, League to Save Lake Tahoe Board Member, and long-term resident of Tahoe Keys discussed how the Final EIR/EIS is very thorough in its impacts and alternatives analysis, including the No Project Alternative and repeated the League's support for the CMT.
- John Moore, resident of Lake Tahoe. Mr. Moore provided comments on objections to the use of herbicides in Lake Tahoe waters and the CMT, questioning the Proposed Basin Plan Prohibition Exemption and Proposed NPDES Permit Monitoring Program, and expressing concerns of the CMT leading to future and repeated herbicide use in Lake Tahoe waters.

## **WATER BOARD TOOK BREAK FROM 3:20PM TO 3:25PM**

### **PUBLIC COMMENTS (CONT.)**

- William Evers, League to Save Lake Tahoe.
- Anne Harper, League to Save Lake Tahoe.
- Harold Singer, South Lake Tahoe resident.
- Lauri Kemper, South Lake Tahoe resident.
- Bruce Warden, South Lake Tahoe resident.
- Trish Freidman, private citizen.
- Brian Beffort, Staff Director of the Sierra Club.
- David Filler, from Suntex Marinas.
- Judith Simon, private citizen.
- Keiron McCammon, Tahoe Keys homeowner.
- Tom Mertens, Lake Tahoe resident.
- John Paoluccio, Inventive Resources, Inc.
- Susan Chandler, Tahoe Keys resident.
- Steve Teshara, Sustainable Community Advocates.
- Madonna Dunbar, Tahoe Water Suppliers Association.
- Carl Fair, Tahoe Keys resident.
- Carolyn Willette, Lake Tahoe resident.
- Andrew Kopania, Tahoe Keys resident.
- Steven Merrill, Lake Tahoe resident and former TRPA Board member.

- Richard McHenry, California Sportfishing Protection Alliance.
- Mago Biehle, Lake Tahoe resident.
- Joy Norem, Tahoe Keys Homeowner.
- Nakia Fosket, Lakeside Park Association - Mutual Water Co.
- Lisa Tilzey, Volunteer Treasurer and many other duties as assigned.
- Natalie Yanish, resident of Douglas County.
- Allyson Willoughby, Incline Village resident.
- Harry Dotson, Tahoe Keys resident.

## ADJOURNMENT

The meeting adjourned at 5:20 p.m. on January 12, 2022. The meeting continued to the second day, January 13, 2022.

**REGULAR MEETING: Thursday, January 13, 2022, @ 10:00 a.m.**

## CALL TO ORDER AND INTRODUCTIONS

Chair Pumphrey called the meeting to order at 10:00 a.m. and indicated this is a continuance from yesterday's meeting and will pick up with the remaining Public Comments that did not get heard the day before.

**Water Board continued the meeting with Item #2 - TAHOE KEYS PROPERTY OWNERS ASSOCIATION, TAHOE KEYS LAGOONS AQUATIC WEED CONTROL METHODS TEST, SOUTH LAKE TAHOE**

## PUBLIC COMMENTS

- Judith Handa, Lakeside Park Association.
- Stephen Alastuey, private citizen.
- Steven Smith, Lake Tahoe resident.
- Lindsay McCannon, Tahoe Keys Property Owner.
- Margaret McKee, private citizen.
- Lisa Foley, Lake Tahoe resident.

Rick Lind, President of Sierra Ecosystem Associates, gave closing arguments on behalf of TKPOA. Mr. Lind addressed some public comments and concerns regarding the CMT and herbicides.

## COMMENTS BY THE WATER BOARD

Water Board members asked clarifying questions. No direction by the Water Board.

Elizabeth Beryt, Water Board Attorney, indicated staff would be sharing proposed revisions in "Change Sheet #2" and responded to earlier comments that the Final EIR/EIS should have included a determination on the feasibility of the environmentally superior or any other alternatives. Ms. Beryt discussed CEQA's requirements regarding evaluation of alternatives and whether a determination of feasibility of alternatives is required. Ms. Beryt explained why CEQA in this case does not require such a determination nor does CEQA require selection of the environmentally superior alternative.

Rob Tucker, Sr. WRC Engineer, discussed Basin Plan criteria and project goals in response to specific comments provided earlier in the public hearing.

Ms. Beryt explained proposed revisions identified in Change Sheet #2. Change Sheet #2 includes proposed updates to the “Exemption to the Aquatic Pesticide Discharge Prohibition for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test Staff Report,” specifically for Criteria 1. Ms. Beryt also explained proposed updates to the Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test and Conforming Changes to Summary of Comments and Responses on the Proposed Resolutions and Orders that was released on December 29, 2021 as depicted in Change Sheet #2. These proposed updates affect how criteria for applying lanthanum modified clay to the Tahoe Keys Lagoons and Lake Tallac are described.

Member Dr. Horne – The invasive plants are biological pollutants degrading water quality and changing the lake’s ecology by degrading habitat for native species and expanding habitat for non-native species. Effectively addressing this situation will take a collective effort by the Lake Tahoe community and possibly others. Sees AIS situation and a competition of risks, with the biological pollutants represents a long-term risk to the lake that could affect a significantly large portion of the lake. Sees the CMT presenting a one-time, short-term risk to the lake with limited spatial effect. Approving the CMT does not mean Dr. Horne will approve future use of chemicals in addressing AIS nor does it obligate the Lahontan Water Board to approve such proposals in the future.

Member Mostafavi – Her decision has been influenced strongly by the evidence provided by the scientific community and community of people that has participated in the Lahontan Water Board’s process.

Member Dyas – Found the Final EIR/EIS to be well written, comprehensive, and in compliance with CEQA. Staff Report provides information demonstrating the exemption criteria is satisfied. Finds the NPDES Permit’s Anti-Degradation Analysis is consistent with the State’s Anti-Degradation Policy. Finds that the Mitigation Monitoring and Reporting Program is adequate to monitor TKPOA’s mitigation measure implementation.

Member Dr. Cox – Appreciates the comments provided by all meeting participants. Working collaboratively will be more effective in addressing Lake Tahoe’s challenges, including AIS in the Tahoe Keys Lagoons and elsewhere in the lake.

Chair Pumphrey – The project is a test and a very conservative approach to evaluating herbicides. Hopeful that the test will generate useful information and that the information is quickly made available to all, including by the Water Board. Any forthcoming project will be evaluated in light of the information that has been shared through the process, so far, and will be developed by the test and other means. Encourages participants to remain engaged regarding the AIS challenge facing Lake Tahoe.

Ms. Beryt presented the Water Board members with the Water Board staff recommendations. Ms. Beryt indicated that staff recommends the Water Board adopt the following Resolutions and Orders:

- a. Resolution for Certification of the California Environmental Quality Act Final Environmental Impact Report for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test **(With Change Sheet #1)**

Motion: Moved by Member Dr. Cox, seconded by Member Dr. Horne to adopting a resolution certifying a Final Environmental Impact Report with a change to the Resolution, page 2 (change sheet #1). Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Member Dr. Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Member Mostafavi	Aye

- b. Resolution for Granting an Exemption to the Aquatic Pesticide Discharge Prohibition in the Water Quality Control Plan for the Lahontan Region for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test **(With Revisions to the Staff Report in Change Sheet #2)**

Motion: Moved by Member Dr. Horne, seconded by Member Dyas to adopting a resolution granting an exemption to the aquatic pesticide discharge prohibition contained in the Water Quality Control Plan for the Lahontan Region with changes to the Staff Report (Change Sheet #2) as presented. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Member Dr. Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Member Mostafavi	Aye

- c. Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for Granting an Exemption to the Aquatic Pesticide Discharge Prohibition in the Water Quality Control Plan for the Lahontan Region for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test **(With Change Sheet #2)**

Motion: Moved by Member Dr. Horne, seconded by Member Mostafavi to consider adopting an individual NPDES permit for residual aquatic herbicides, rhodamine dye, and lanthanum-modified clay to surface waters within the Tahoe Keys Lagoons and Lake Tallac with changes identified in Change Sheet #2. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Member Dr. Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Member Mostafavi	Aye



- d. Mitigation Monitoring and Reporting Program for the Lahontan Region for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test.

Motion: Moved by Member Dr. Cox, seconded by Member Dr. Horne to adopting a Mitigation Monitoring and Reporting Program as presented. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Member Dr. Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Member Mostafavi	Aye

#### DIRECTIONS BY THE WATER BOARD

Chair Pumphrey stated that the Water Board should get the results of this permit out to the public as soon as they are available. Chair Pumphrey thanked everyone for their hard work on this item and urged everyone to stay involved.

### 3. MINUTES

Motion: Moved by Member Dyas, seconded by Member Dr. Cox to approve the November 10, 2021, meeting Minutes as presented. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Member Dr. Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Member Mostafavi	Aye

[View the adopted November 10, 2021, Meeting Minutes](#)

### 4. REPORTS BY WATER BOARD CHAIR AND WATER BOARD MEMBERS

Water Board Liaison, Nicole Morgan, gave a report on Water Board updates at prior day's meeting.

### 5. EXECUTIVE OFFICER'S REPORT

The Executive Officer, Michael R. Plaziak, provided an update to the Water Board and public on key actions and activities in the Lahontan region, including the items below.

- a. Personnel Report/Update on filling vacancies.
- b. 2022 Board Meeting Schedule and Locations.

Chair Pumphrey asked that we revisit the 2022 Water Board Meeting dates. Specifically, November dates. Member Dr. Horne indicated she likes the fact that Lahontan is consistent with scheduling Board Meetings the 2<sup>nd</sup> week in the month.

## 6. ANNUAL ELECTION OF WATER BOARD CHAIRPERSON AND VICE-CHAIRPERSON

Motion: Moved by Member Dyas, seconded by Member Dr. Cox to elected, Peter Pumphrey as Water Board Chairperson. Member Mostafavi moved to elect Peter Pumphrey as Water Board Chairperson, and Member Dr. Horne, as Vice-Chairperson for 2022, seconded by Member Dyas. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Member Cox	Aye
Member Dyas	Aye
Member Jardine	Aye
Member Dr. Horne	Aye

Water Board members elected, Peter Pumphrey as Water Board Chairperson and Dr. Amy Horne as Vice-Chairperson for 2022.

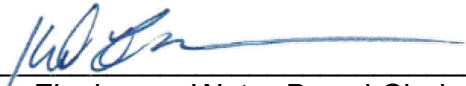
## 7. CLOSED SESSION

The Water Board went into Closed Session at 1p.m. on Thursday, January 13, 2022.

## ADJOURNMENT

With no further business to come before the Water Board, the meeting adjourned at 11:27 a.m. on January 13, 2022.

Prepared by: \_\_\_\_\_

  
Katrina Fleshman, Water Board Clerk

Adopted: May 11, 2022