

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**BOARD ORDER NO. R6T-2016-0009**

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS  
BOARD ORDER NO. 6-93-90  
WDID 6A250007000**

**FOR**

**FORT BIDWELL SEWAGE TREATMENT FACILITY**

**Modoc County**

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The California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. Discharger and Facility Description

The Fort Bidwell Indian Community Council (hereinafter referred to as “Discharger” or “Paiute Tribe”) owns and operates the Fort Bidwell Indian Community sewage collection, treatment, and disposal system (Facility). The Facility is located on the Fort Bidwell Reservation, about one-half mile from the community of Fort Bidwell, in the Surprise Valley Hydrologic Unit.

The Facility’s sewage treatment and disposal components consists of seven earthen evaporation ponds, five of which contain synthetic liners, surrounded by a chain-link fence. The rectangular basins are similar in size, roughly 200 feet by 250 feet, with a total evaporation surface area of about 4.6 acres. A constructed three-sided underground rock drain intercepts and routes groundwater around the ponds.

2. Permit History

The Water Board previously established waste discharge requirements for the Facility under Board Order No. 6-74-45, Board Order No. 6-85-102, and most recently under Board Order No. 6-93-90, which was adopted on September 9, 1993.

3. Basis for Rescission

The Water Board periodically reviews and updates existing waste discharge requirements in order to incorporate new regulations and policies. Water Board staff recently reviewed records for Board Order No. 6-93-90, as part of the above-referenced review and update program.

Water Board staff observed past correspondence from the Discharger's legal counsel asserting that, without expressed consent being provided by the Paiute Tribe, the Water Board did not have the authority to regulate waste discharges on lands owned by a federally-recognized Indian tribe (Tribal Lands). The Paiute Tribe is a federally-recognized Indian tribe. The correspondence also stated that the Paiute Tribe was not aware of providing expressed consent to be regulated by the Water Board. Water Board staff also is not aware of such expressed consent being provided by the Paiute Tribe.

The State Water Resources Control Board Office of Chief Counsel has provided guidance regarding Water Board regulation of discharges on Tribal Lands. The guidance documents generally support the position outlined in the Discharger's correspondence regarding the matter.

Water Board staff contacted Paiute Tribe representatives to inform them of staff's proposal to rescind the waste discharge requirements. The Paiute Tribe representatives reaffirmed their position that discharges on their Tribal Lands are subject to tribal legal controls. The Paiute Tribe representatives expressed appreciation for any technical support the Water Board may provide and did not indicate any opposition to the planned rescission.

#### 4. Conclusions

It is in the public interest to rescind Board Order No. 6-93-90 based upon recognition that the Water Board does not have the authority to regulate discharges on Tribal Lands, the Paiute Tribe does not wish to be subject to waste discharge requirements, and that environmental protection on Tribal Lands is within the United States Environmental Protection Agency's jurisdiction.

#### 5. California Environmental Quality Act

Rescission of the waste discharge requirements is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) in accordance with section 15321, title 14, California Code of Regulations.

#### 6. Notification of Interested Parties

The Water Board notified the Discharger and interested parties of its intent to rescind waste discharge requirements prescribed by Board Order No. 6-93-90 in a tentative Order circulated for public comment from December 17, 2015 through January 18, 2016. No comments in opposition of the tentative Order were received. The Water Board notified interested persons of its intent to adopt the proposed Rescission Order at its March 9-10, 2016 meeting in South Lake Tahoe.

7. Public Meeting

The Water Board, in a public meeting, heard and considered all comments pertaining to this Rescission Order.

**IT IS HEREBY ORDERED THAT** Board Order No. 6-93-90 is hereby rescinded.

I, Patty Z. Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on **March 9, 2016**.

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PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER