
Lahontan Regional Water Quality Control Board

AMENDED MINUTES

May 13, 2021

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

Water Board Members

Peter C. Pumphrey, Chair, Chalfant
Amy Horne, Ph.D., Truckee
Keith Dyas, Rosamond

Eric Sandel, Vice-Chair, Truckee
Kimberly Cox, Helendale
Essra Mostafavi, Bishop

State Water Board

Elizabeth Beryt, Office of Chief Counsel
Sean Maguire, Executive Office

Water Board Staff

Mike Plaziak, Executive Officer
Ben Letton, Acting Asst Executive Officer
Robert Tucker, Sr. WRC Engineer
John Morales, WRC Engineer,
Christina Guerra, Engineering Geologist
Christopher Avalos, Engineering Geologist
Katrina Fleshman, Executive Assistant

Scott Ferguson, Supervising WRC Engineer
Patrice Copeland, Supervising Engineering Geologist
Jan Zimmerman, Senior Engineering Geologist
Jehiel "Jay" Cass, Sr. WRC Engineer
Daniel Sussman, Sr. Environmental Scientist
William "Bill" Muir, Sr. Engineering Geologist
Michael Suglian, Scientific Aid, South Lake Tahoe

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

REGULAR MEETING: Wednesday, May 13, 2021, @ 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 introduced Bob Lloyd with AGP Video and asked Mr. Lloyd to give direction to the public that wish to speak.

Chair Pumphrey introduced the new Board member Essra Mostafavi, the rest of the Water Board Members, Water Board staff and State Water Board staff.

1. PUBLIC FORUM

Beth Christman, from Truckee River Watershed Council.

Jane Davis, resident of Tahoe.

Laurie Kemper, long time resident of Lake Tahoe and former employee of Lahontan Water Board.

2. MINUTES

Motion: Moved by Member Dyas, seconded by Member Cox to approve the March 10-11, 2021, meeting Minutes as presented. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Vice-Chair Sandel	Aye
Member Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Member Mostafavi	Abstained

[View the adopted March 10-11, 2021, Meeting Minutes](#)

3. REPORTS BY WATER BOARD CHAIR AND WATER BOARD MEMBERS

Member Cox explained that due to the drought, there are members of the public stealing water for their Marijuana grows. Member Sandel asked if there are penalties for that. Member Cox indicated the water truck that was caught stealing water was a 4,000-gallon water truck at \$3.99 per hundred cubic foot, that was less than \$50 worth of water. The deputy taking the police report, indicated if it doesn't meet the higher value limit, their hands are tied from that perspective as well. Member Cox went on to say due to Proposition 64, if you have seven or 7,000 plants, it is now a misdemeanor.

Chair Pumphrey asked Mr. Plaziak what can Lahontan do to reconstitute a cannabis unit? Mr. Plaziak replied that we've got two waterboard staff that are dedicated to enforcement issues with cannabis across two regions, not only the Lahontan Region (Region 6), but also the Colorado river region (Region 7).

Dr. Horne gave an update Aa Action Plan Liaison. Dr. Horne indicated one of the feedbacks Dr. Horne received is Water Board members are not very clear at the direction to Lahontan staff during the Water Board Meetings. Maybe we can put in the minutes clear directions of what we are asking of Water Board staff. Dr. Horne encouraged other Board Members to join one or more of the All Staff meetings and Brown Bag lunches with the Lahontan staff.

Chair Pumphrey agreed with Dr. Horne and asked Lahontan staff to add to the June Board Meeting those priorities as part of the conversation in the board's priorities to include, in addition to programmatic priorities, consideration of improving communication between the board members and staff.

Member Sandel gave an update on the Chairs meeting on Monday, May 10, 2021. Member Sandel indicated the meeting focused on General Storm Water Permit being extended, The Sacramento river temperature management, and Fiscal budgets.

4. EXECUTIVE OFFICER'S REPORT

Water Board staff, Michael Plaziak, Executive Officer, provided an update to the Water Board and public on standing items and activities in the Lahontan Region, including the items below.

- Personnel Report
 - * Promotions
 - * Retirements
 - * New Hires
- Bear Valley Cleaners

Water Board Staff, Scott Ferguson, Supervising Water Resource Control Engineer, discussed the 2020 4th quarter Violations report.

QUESTIONS BY THE WATER BOARD

Dr. Horne asked Mr. Plaziak why there was no responsible party for the abandoned sunken vessel in Lake Tahoe. Dr. Horne further asked who has the oversight of the moorings in Lake Tahoe. Mr. Plaziak deferred the question to Mr. Ferguson. Mr. Ferguson replied that he can investigate who is responsible for the oversight of existing buoy fields, the private ones, and how this slip through the cracks.

Dr. Horne further requested Lahontan staff to reach out to whoever the agencies involved might be and see if this could be tightened up and have better record keeping and tracking of these sunken vessels. Mr. Ferguson indicated there are several agencies that have boats that patrol the Lake at varying frequencies. And it would be a good idea for Lahontan staff to reach out to them to put that on their radar to be looking for in the first place and reporting while they are out on the water.

5. *REVISED WASTE DISCHARGE REQUIREMENTS FOR GOLDEN QUEEN MINING COMPANY, LLC AND THE U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, SOLEDAD MOUNTAIN PROJECT, KERN COUNTY

Water Board staff, Christina Guerra asked the Water Board to consider adopting the revised Waste Discharge Requirements to reflect existing Facility conditions, require the installation of additional groundwater monitoring wells, provide general updates to the monitoring and reporting program, and to be consistent with California Code of Regulations, title 27.

Motion: Moved by Member Sandel, seconded by Member Dyas to adopt the revised Waste Discharge Requirements to reflect existing Facility conditions, require the installation of additional groundwater monitoring wells, provide general updates to the monitoring and reporting program, and to be consistent with California Code of Regulations, title 27. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Vice-Chair Sandel	Aye
Member Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Essra Mostafavi	Aye

PUBLIC COMMENT

Chair Pumphrey asked requested speaker, Joe Balas, from Golden Queen Mine, if he would like this taken off the Uncontested Calendar. Mr. Balas indicated to leave it on the Uncontested Calendar and further stated he is just here to listen.

6. *REVISED WASTE DISCHARGE REQUIREMENTS FOR THE MARINE CORPS LOGISTICS BASE, BARSTOW, YERMO ANNEX, INDUSTRIAL WASTEWATER TREATMENT AND RECYCLING FACILITY, SAN BERNARDINO COUNTY

Water Board staff, Christopher Avalos, Engineering Geologist, asked the Water Board to consider adopting the revised Waste Discharge Requirements to reflect existing - Facility conditions, provide general updates to the monitoring and reporting program, and to be consistent with California Code of Regulations, title 27.

Motion: Moved by Member Sandel, seconded by Member Dyas to adopt the revised Waste Discharge Requirements to reflect existing -Facility conditions, provide general updates to the monitoring and reporting program, and to be consistent with California Code of Regulations, title 27. Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Vice-Chair Sandel	Aye
Member Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Essra Mostafavi	Aye

7. WASTE DISCHARGE REQUIREMENTS FOR THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, VALLEY WELLS SAFETY ROADSIDE REST AREA

Water Board staff, John Morales, P.E., Water Resource Control Engineer, gave presentation and asked the Water Board to consider adopting the individual Waste Discharge Requirements (WDRs) for the existing domestic wastewater discharge at the Caltrans Valley Wells Safety Roadside Rest Area (SRRA). The Board Order includes time schedules requiring Caltrans to complete construction of an upgraded wastewater treatment system by 2026 that will protect groundwater quality.

QUESTIONS BY THE WATER BOARD

No Questions by the Water Board.

Motion: Moved by Member Dr. Horne, seconded by Member Sandel to adopt the individual Waste Discharge Requirements (WDRs) for the existing domestic wastewater discharge at the Caltrans Valley Wells Safety Roadside Rest Area (SRRA). Chair Pumphrey called for a roll call vote and the motion carried per the following votes:

Chair Pumphrey	Aye
Vice-Chair Sandel	Aye
Member Cox	Aye
Member Dyas	Aye
Member Dr. Horne	Aye
Essra Mostafavi	Aye

Water Board took a Break from 11:30am to 1:00pm

State Water Board staff, Sean Maguire, gave an update to the current Drought and the effects of the drought on water quality. Mr. Maguire indicated everyone needs to do their part for water conservancy. Mr. Maguire went on to say the Governor announced a \$5.1 billion investment in California water infrastructure in response to the drought conditions.

8. BACTERIA WATER QUALITY OBJECTIVES EVALUATION PROJECT

Water Board Staff, Ed Hancock, presented an evaluation of antidegradation considerations for the project and presented planning options revised from the Water Board workshop heard in January 2021.

Water Board staff, Elizabeth Beryt, Council, presented an overview of the Anti-Degradation Policy.

Water Board staff, Mr. Hancock, gave further presentation on the three options for consideration by the Water Board:

- High-quality waters benchmark approach (January Option 4)
- Elevation-based approach (January Option 5)
- Beneficial Use/WQO-based approach (January Option 6)

Mr. Hancock indicated the staff recommendation is to pursue a new beneficial use and water quality objective. Remove the fecal coliform, insert E-coli Rec-1 water quality objective language into the basin plan, and then develop that new use and objective for our high value high quality waters.

QUESTIONS BY WATER BOARD

Member Mostafavi asked if under this scenario where we remove the fecal coliform objective would that absolve, whoever's the noticing jurisdiction on that water body. Does that remove the requirement to notice the public regarding the levels of fecal coliform, or is it only that the current standards are not going to be upheld? Mr. Hancock replied If we were to remove the fecal coliform objective, those signs in Bishop would still be posted because, the E-coli objective is also not being met in the Bishop Creek.

Member Cox asked what would be wrong with just the E-coli approach and removing the, the rec one? Mr. Hancock replied that there are a few things such as loss of institutional memory, this would be opening the door to a potentially slow decline of water quality in the region.

Dr. Horne offered information she thought might help the Board clarify its decision about bacteria water quality objectives. She first noted that beneficial uses are derived from our values, and therefore, when considering the benefit of water quality to people in the state, it is helps to understand how economists define values. Further, because the anti-degradation policy refers to both existing and possible future uses of water, the policy implies considering benefits to both current and future California residents.

First, economists identify a class of “instrumental values”, meaning a thing is valued as a means to something else. Many of our beneficial uses are based on instrumental values, such as water contact recreation, cold freshwater habitat, flood attenuation, and so on. A thing may also have “intrinsic value,” meaning it is valued as an end in itself. In the Lahontan region we have a great example of a water body that we protect primarily because of its intrinsic value, and that is Mono Lake. Mono Lake is an Outstanding National Water Resource Water not because of how we use that water, but because its particular salinity supports a unique ecosystem. Watersheds can have both instrumental and intrinsic value.

Economists have also classified benefits into four categories. Market benefits are simply things that are bought and sold: their values are relatively easy to determine. Non-market benefits are obviously not valued by the market, and they can be either consumptive or non-consumptive. Recreational fishing is an example of a non-market benefit. There are a number of ways to determine the value of a non-market benefit, such as willingness to pay, revealed preference models, and the value of an option to enjoy a benefit at some undetermined future time. Indirect benefits are those that indirectly support other resources, such as wetlands having the capacity to recharge ground water and surface waters. And a non-use value is the value that a resource exists even if a person never intends to use it.

I think some people feel uncomfortable with the approach presented in option one because they sense the high-quality waters present in our region have value, or benefit, in their own right. It is the value of water quality that is relatively unaffected by human activity. For that reason, the proposed backcountry use beneficial use may be too narrow.

Dr. Horne asked whether it would be confusing to have two different Ecoli water quality objectives if each one was tied to a different beneficial use. Mr. Hancock replied thought that would be a lot clearer than the current approach and would not present the same challenges.

Dr. Horne asked whether Lahontan has sufficient data to identify which parts of the region might qualify for the higher quality standard with the WQO/BU option. Mr. Hancock replied that the region as an Ecoli dataset with more than several thousand data points. He said the challenge would be to determine level of risk to accept from the epidemiological studies. Dr. Horne pointed out that basing a WQO on epidemiological studies says in effect the only value we have is the effect of water on public health. It ignores all the other values, or benefits, that are real and can be measured. Actual data showing a water body rarely exceeds the 20 cfu fecal coliform standard is solid scientific evidence that it has high quality waters.

Member Sandel expressed Member Cox’s concerns with Agriculture and stated in that case, we were talking about two different aspects. Member Sandel indicated he feels we’re talking about the effect of fertilizers and chemical effects of agricultural verses, the effects of livestock, where we get into E-coli. Member Sandel requested Lahontan staff to make a distinction for agriculture between those two branches, how agriculture can have an adverse effect on the environment, Member Sandel went on to say he likes the benefit of the new beneficial use approach and thinks it seems pragmatic.

PUBLIC COMMENTS

- Teresa Dunham, Kahn, Soares & Conway, representing Centennial Livestock Operations. Ms. Dunham gave presentation. Ms. Dunham indicated she is in support of Option 1 but suggests a phased in approach.
- Ken Tate, Professor with the University of California Davis. provided a handout to the Water Board titles "Closing the door on Fecal Coliform".
- Lauri Kemper, long time resident of Lake Tahoe.
- Thomas Talbot, from Inyo County Cattlemen.
- Matt Kemp, resident of Lake Tahoe.
- Meese Graham, from All Five Ranch, Big Pine, CA.
- Katherine Rubin, from Los Angeles Department of Water and Power.

QUESTIONS/COMMENTS BY THE WATER BOARD

Member Cox asked if Water Board adopts staff recommendations, can they impose specific water quality standards. And if so, she is in support of staff recommendations. Mr. Hancock replied that Lahontan can develop objectives for that particular use.

Member Dyas, indicated he is in support of option 6.

Member Dr. Horne indicated she is in support of staff recommendations for Option 6 and is also in support of a phased in approach. Dr. Horne went on to say the various speakers have made a good case for getting the, REC-1 standard in place, and it would help move some other things forward, but Dr. Horne would support that only so long as we are continuing to move forward with the water quality, beneficial use option.

Dr. Horne feels it might be useful to consider removing the Rec-1 in some specific instances where recreation is not an existing use, water contact recreation is not an existing use, and never has been.

Member Sandel, indicated he agrees with Dr. Horne's comments, and is in support of staff recommendations.

Member Mostafavi, asked if this subject can be potentially brought back with elements of phasing.

Chair Pumphrey, indicated he could go with staff recommendations, but has reservations. Chair Pumphrey further stated the idea of a phased approach is intriguing and he likes that idea. Chair Pumphrey indicated he is concerned with the current staff recommendations and the public comments tells him Water Board needs more information regarding Anti-degradation.

Chair Pumphrey stated he feels there is value to considering beneficial use in high quality waters. However, Water Board needs to talk about other values of water quality waters. Chair Pumphrey would like when the Water Board staff comes back with a proposed definition for this beneficial use of the back country, he would like some pretty explicit information about how staff thinks that enforcement is going to be done with respect to these locations. Such as who's it going to be enforced against, for what kind of actions, and under what kind of circumstances. Chair Pumphrey further indicated Water Board staff should take consideration to the phased in approach.

Dr. Horne indicated she concurs with Chair Pumphrey. Water Board staff needs to be transparent about what we are asking for here.

Executive Officer, Michael Plaziak, asked if Chair Pumphrey can clarify what the Water Board means by "bringing back to you (Water Board)". And, asked about timing to bring back to the Water Board. Chair Pumphrey replied to Mr. Plaziak that what he is thinking of is a sort of proposed next step. Chair Pumphrey would like to get some feedback. He feels it would be helpful to get some feedback about what Lahontan staff thinks a phased approach would look like and what the timelines would be with that. That way the Water Board can decide if that makes any sense. Chair Pumphrey would also like some feedback about what Lahontan staff thinks timelines would be for development of this additional back country use, so that Water Board can have a clear idea of what they are tasking staff with doing, and a clear expectation about when Water Board might see results. Chair Pumphrey indicated maybe having a follow-up workshop to this, just to get that kind of next steps information.

Member Cox indicated she likes the phased in approach suggested by Tess Dunham as well. Member Cox stated she feels what would work for her is an evaluation of the E-coli Rec-1 standard. If we put that in place, and then we phased in the back country uses as they're identified, and these objectives are determined rather than trying to determine all those objectives and putting this off farther into the future. Member Cox went on to say if we could look at the E-coli REC-1, which is the option one approach, and then phase in the other back country water quality objectives, as we move forward,

Dr. Horne requesting Water Board staff come back to the Water Board with maps using data we have and take areas where we are confident is high quality waters exist and point them out on the map somehow.

Water Board staff confirmed with Water Board member Dr. Horne that the team would evaluate resource needs to further complete the evaluation, which may include a mapping analysis of available options.

Chair Pumphrey asked Mr. Plaziak what he felt about a phased in approach. Chair Pumphrey indicated, if Water Board can incorporate a phased in approach they should and if they can't he would like to know why. Mr. Plaziak replied we could decide on a phased approach in option 1 and bring that back to the water Board in September or give that to the Water Board sooner if recommended. Chair Pumphrey replied in September or Fall would be sufficient.

Mr. Plaziak replied to the Water Board members that he will take all this information back to the Lahontan staff and see how we can bring this back to the Water Board.

9. CLOSED SESSION

The Water Board, without the public present, went into closed session at 4:37 p.m. regarding Closed Session Item(s) d. Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

ADJOURNMENT

With no further business to come before the Water Board, the meeting adjourned at 4:37 p.m. on May 13, 2021.

Prepared by:  Adopted: May 13, 2021
Katrina Fleshman, Water Board Clerk