



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

October 26, 2007

Victorville Daily Press and Desert Dispatch
San Bernardino Sun

Deliver by E-Mail

REQUEST FOR PUBLICATION – NOTICE OF PUBLIC HEARING: CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY ORDER FOR CITY OF BARSTOW, SAN BERNARDINO COUNTY

Please publish the enclosed Public Notice one (1) time as soon as possible, but no later than **October 31, 2007**. Please send your invoice and proof of publication to the attention of Kathleen Minsky at the address above. Please contact Ms. Minsky at (530) 542-5575 if you have any questions about the billing, or Harold Singer (530) 542-5412 if you have any questions about the content of the notice.

Nellie Davidson
Office Technician

Enclosure: Notice of Public Hearing

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California Environmental Protection Agency



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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
2501 Lake Tahoe Boulevard, South Lake Tahoe, CA 96150**

PUBLIC HEARING

Concerning

CONSIDERATION OF AN ADMINISTRATIVE CIVIL LIABILITY ORDER

Concerning

CITY OF BARSTOW, SAN BERNARDINO COUNTY

IMPORTANT

The Lahontan Regional Water Quality Control Board (Lahontan Water Board) must receive the following submittals by:

No later than 5:00 p.m. on Friday, November 9, 2007:

- 1. Requests from persons requesting designated party status. (Section V.)**
- 2. Objections to these hearing procedures. (Section VI.)**

No later than 11:00 a.m. on Monday, November 19, 2007:

- 1. Written comments on the Administrative Civil Liability Complaint. (Section VII.)**
- 2. Written non-evidentiary policy statements from interested persons. (Section VII.)**

No later than 2:00 p.m. on Monday, November 26, 2007:

- 1. Written evidentiary objections. (Section VII.)**

I. BACKGROUND

The Assistant Executive Officer of the Lahontan Water Board issued a Complaint for Administrative Civil Liability in the amount of \$300,000 to the City of Barstow. The Administrative Civil Liability Complaint No. R6V-2007-0026 (Complaint) alleges that on May 20-21, 2006, the City of Barstow caused or permitted 1.5 million gallons of raw sewage to be discharged from the sanitary sewer system it owned and operated to Half Way Wash and the Mojave River. The Complaint can be found at http://www.waterboards.ca.gov/lahontan/acl_barstow.html. The alleged cause of the discharge was the failure of the backup power system that was triggered due to a "power spike" on the power grid, the failure of the alarm company to notify the City of Barstow of various alarms triggered at the wastewater treatment facility, and the delay in diagnosing and correcting the problem once the discharge was identified.

II. PURPOSE OF PUBLIC HEARING

The City of Barstow has not waived its right to a public hearing. The public hearing is intended to provide the City of Barstow with an opportunity to address and contest allegations set forth in the Complaint. Interested persons will also have an opportunity to provide non-evidentiary policy

statements during the public hearing. Following receipt of testimony, the Water Board will consider whether to issue an administrative civil liability order to the City of Barstow in the amount of \$300,000 or some different amount, to reject any proposed order, or to refer the matter to the California Attorney General.

III. PUBLIC HEARING DATE AND LOCATION

A public hearing concerning this matter will be held during the Lahontan Water Board's November 2007 meeting, which is scheduled for:

DATE: November 28, 2007
PLACE: Barstow City Council Chambers
220 East Mountain View Street, Suite A
Barstow, CA 92311

An agenda announcement for this meeting will be available by November 9, 2007. This announcement will provide more specific information about the date and time of this hearing. The announcement will be sent to all designated parties and interested parties and will be available at: <http://www.waterboards.ca.gov/lahontan>.

IV. HEARING PARTICIPANTS

The Prosecution Team consists of staff members Robert S. Dodds, Assistant Executive Officer; Chuck Curtis, Division Manager; Scott Ferguson, Chief, Enforcement Unit; John Steude, Engineering Geologist; and Staff Counsel David Boyers. The function of the Prosecution Team, as a designated party and advocate, is to present evidence in support of the Prosecution Team's position in order to create an administrative record that would support a decision in the Prosecution Team's favor.

The Advisory Team consists of Harold Singer, Executive Officer, and Staff Counsel David Coupe. The function of the Advisory Team is to assist the Board Chair with conducting the hearing, and assist the Board members with formulating a decision. The Advisory Team's responsibilities include receiving and distributing hearing submittals, maintaining the administrative record, mailing out hearing-related correspondence and other documents, assisting the Board Chair with rulings on procedural motions, and assisting the Board members with formulating a decision. The Advisory Team may select technical staff to assist them and such staff will be members of this team.

Interested persons are non-designated parties. Interested persons may present non-evidentiary policy statements. Interested persons (1) are not entitled to present evidence (either written or through evidentiary testimony); (2) are not subject to cross-examination; and (3) may not cross-examine other parties.

The following participants are designated as parties for this hearing:

1. Lahontan Water Board Staff (Prosecution Team)
2. City of Barstow

V. REQUEST DESIGNATED PARTY STATUS

Other persons may request designated party status. The Advisory Team must receive the request by **5:00 p.m. on Friday, November 9, 2007**. Copies of any request for designated party status, and all attachments, must also be sent to the Prosecution Team and the City of Barstow. (See contact information below.) Although the due date is November 9, *interested*

persons are encouraged to submit such requests as soon as possible, so the Chair can consider the request before the due date for written materials. The request must explain the basis for status as a Designated Party and in particular how the person is directly affected by this matter. Rulings on such requests are within the sole discretion of the Chair of the Lahontan Water Board. All designated parties must comply with the deadlines below for submitting written materials and objections, even if the Chair has not yet ruled on a pending request for designated party status.

If the Chair denies a request for designated party status, any timely non-evidentiary policy statements the requestor has submitted will be included in the administrative record. If the requestor has already submitted evidentiary materials, these may be admitted into the record at the discretion of the Chair. The evidentiary materials will not become part of the record absent an express ruling by the Chair.

VI. CONDUCT OF HEARING

The procedures governing Lahontan Water Board meetings may be found in California Code of Regulations, title 23, section 648 et seq., which may be obtained by accessing http://www.waterboards.ca.gov/water_laws/. Hearings before the Lahontan Water Board are not conducted pursuant to Government Code section 11500 et seq. Information on meeting and hearing procedures is also available by contacting Ms. Laurie Applegate at (530) 542-5414.

Water Board staff, the City of Barstow and its representatives, and interested persons may speak at the Water Board meeting, and are expected to orally summarize their written submittals. Persons making presentations should confine their statements to the issues pertinent to this hearing only. Oral testimony should be brief and may be limited by the Water Board Chair to allow all interested persons time to be heard.

Each of the designated parties will have a total of **40 minutes** to present (summarize) its comments on the proposed administrative civil liability order, cross-examine witnesses and to provide a closing statement. The Chair may modify this time allocation and, if modified, will notify all designated parties in advance of the meeting. Interested persons will have **5 minutes** to comment on the proposed administrative civil liability order. There may be one or more breaks at the discretion of the Chair.

Water Board members and Advisory Team legal counsel may ask questions of Designated Parties, Prosecution Team staff, Advisory Team staff or interested persons at any time during the hearing. The time for asking and answering these questions will not count against time limits.

The Board may deliberate on this matter in closed session. (Government Code section 11126, subdivision (c)(3).)

Any objections to the procedures in this Hearing Notice must be submitted in writing. The Lahontan Water Board must receive the written objections by **5:00 p.m. on Friday, November 9, 2007**.

VII. SUBMISSION OF WRITTEN MATERIALS

Designated parties and interested persons may submit to the Lahontan Water Board and to all designated parties, written materials on the proposed Administrative Civil Liability Order. The Lahontan Water Board must receive these materials by **11:00 a.m. on Monday, November 19, 2007**. This material will be made available to the Water Board members. "Written materials" include documentary evidence, legal or technical argument or analysis, and non-evidentiary

policy statements.

Designated Parties may submit written objections to any timely evidence that another Designated Party submits by the November 19 deadline. *Written* evidentiary objections must be received by **2:00 p.m. on Monday, November 26, 2007**. Oral objections may be made at the hearing.

Written requests or materials received after the specified deadlines will not be accepted, except at the discretion of the Chair. Untimely written material or objections will not be accepted or incorporated into the administrative record if doing so would prejudice the Water Board, its staff, or the City of Barstow. The Chair may choose to modify this rule upon a showing of severe hardship. (California Code of Regulations, title 23, §§ 648.1 & 648.4.) Any person seeking to submit late written materials must justify why the materials could not have been submitted earlier.

VIII. INSTRUCTIONS FOR SUBMITTING DOCUMENTS

Originals and copies of all written materials, objections, and requests for designated party status related to the proposed Administrative Civil Liability Complaint must be sent to:

For the Lahontan Water Board (Advisory Team):

Originals of all documents to:	And one copy to:
Harold J. Singer Executive Officer Regional Water Quality Control Board, Lahontan Region 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 hsinger@waterboards.ca.gov Phone (530) 542-5412 Fax (530) 544-2271	David Coupe, Esq. Staff Counsel State Water Resources Control Board, Office of Chief Counsel 1001 I Street Sacramento, CA 95814 dcoupe@waterboards.ca.gov Phone (916) 327-4439 Fax (916) 341-5199

For Lahontan Water Board Staff (Prosecution Team):

One copy of all documents to:	And one copy to:
Robert S. Dodds Assistant Executive Officer Regional Water Quality Control Board, Lahontan Region 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 Rdodds@waterboards.ca.gov Phone (530) 542-5410 Fax (530) 544-2271	David Boyers, Esq. Staff Counsel State Water Resources Control Board, Office of Enforcement 1001 I Street Sacramento, CA 95814 dboyers@waterboards.ca.gov Phone (916) 341-5276 Fax (916) 341-5199

For the City of Barstow:

One copy of all documents to:

Hector Rodriguez, City Manager
City of Barstow
220 East Mountain View Street, Suite A
Barstow, CA 92311
Email: hrodriguez@barstowca.org
Phone (760) 255-5101
Fax (760) 256-4472

Designated Parties must submit fifteen (15) paper copies of all written materials to Harold Singer at the above address.

Extra copies of procedural or evidentiary objections and requests for designated party status are not required. These documents can be submitted on paper, by email or by fax, as long as they are provided to all of the above individuals.


Anyone having questions on the Administrative Civil Liability Complaint, the proposed order for Administrative Civil Liability or other related documents should contact Robert S. Dodds at (530) 542-5410. Interested persons may download the above listed and related documents from the Lahontan Water Board's website at www.waterboards.ca.gov/lahontan. If you do not have Internet access or would like to receive a hardcopy of these documents, these documents may be inspected and copied at the Lahontan Water Board's office, Monday through Friday, excluding holidays, between 8:00 a.m. and 5:00 p.m. or you may request a copy to be mailed to you by telephoning Laurie Applegate at (530) 542-5414.

XI. HEARING FACILITIES

The hearing facilities will be accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact Ms. Laurie Applegate at (530) 542-5414 at least five (5) working days prior to the hearing. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Please bring the above information to the attention of anyone you know who would be interested in this matter.

Dated: October 26, 2007



Harold J. Singer
Executive Officer