



State Water Resources Control Board



Linda S. Adams
*Secretary for
Environmental
Protection*

Division of Water Rights
1001 I Street – 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.swrcb.ca.gov>
Division of Water Rights: <http://www.waterrights.ca.gov>

Arnold Schwarzenegger
Governor

WATER RIGHT COMPLAINT

For information in filling out this form,
see pamphlet titled "Investigating Water Right Complaints"

CID# _____
File: ____ - ____ - ____
(For staff use only)

Complainant

| | |
|---|------------------------------|
| Living Rivers Council, LRC Chris Malan Manager 2945 Atlas Peak Rd. Napa, a. 94558 | 707-244-7434 707-263-3924 |
| _____ | _____ |
| Friends of Clear Lake P.O. Box 492 Glenhaven, Ca. 95443 | (Phone No.) 707-274-3302 |
| _____ | _____ |
| (Address) | (Zip Code) |

Party complained against (Respondent)

| | |
|---|-------------|
| <p>Since June of 2009 Clear Lake has been infested with toxic cyanobacteria aka blue-green algae. The cyanobacteria infestation has caused the Lake County Environmental Health Department to issue a public warning for people and pets to stay out of the water. The cyanobacteria produces toxins known to cause internal organ failure along with being carcinogenic in humans. Clear Lake supplies municipal water to many communities and it is not clear that water plants are equipped to filter out cyanobacteria toxins. All permitted water users/diverters of the Clear Lake watershed basin (located in Lake County California) must be reevaluated for water rights allocations in order to restore beneficial uses of Clear Lake to sustainable healthy water quality for the Clear Lake basin stakeholders ASAP for relief from this pollution event.</p> | |
| _____ | _____ |
| (Name) SWRCB must determine through emergency order which diverters must stop diverting, in order to raise the lake level during drought conditions. | (Phone No.) |
| _____ | _____ |
| (Address) | (Zip Code) |

Location of Respondent's Diversion

The diversion is located on: All diversions currently taking place in the Clear Lake basin should be reviewed by the State Water Resource Control Board, SWRCB, for modification of water rights including diversion and transfers of water from Clear Lake for the purpose of restoring all beneficial uses to Clear Lake as beneficial uses are protected by the Federal Clean Water Act and the Public Trust Doctrine. The Public Trust Doctrine guarantees that the people shall have rights to access clean flowing water throughout the commons. There are numerous water diversions serving the public throughout the Clear Lake basin, but the SWRCB shall protect public health and wildlife from water pollution hazards that are a direct result of over diversion in combination with nutrient and mercury pollution loading caused by human activities. Through the SWRCB's continuing jurisdiction and authority water quality can be improved for all beneficial uses for people and wildlife of Clear Lake. Hitch, a native minnow and unique to Clear Lake, are a specie of special concern under the Endangered Specie Act because their numbers have been dropping for years. Toxins from cyanobacteria can be deleterious to the food chain of the Lake and people. According to Lake County Environmental Department there have been numerous fish kills this year apparently from oxygen deprivation. Cyanobacteria have been rapidly multiplying forming colonies that consume and rob fish of oxygen as it is sucked out of the water column. Fish groping for air is seen around the lake.

(Name of Spring, Stream, or Body of Water)

At a point within _____ ¼ of _____ ¼ of Section _____ T _____ R, _____ B&M

County of _____ Assessor's Parcel No. _____

The general location is as follows: _____
(Name of Road, Distance to Nearest Town, Etc.)

Description of Complaint

The following situation or condition is occurring (attach additional sheets, photographs, maps, sketches, reports, etc. as needed.)

Due to drought conditions, water diversions, mercury and nutrient loading, Clear Lake is currently experiencing severe blue-green algae or toxic cyanobacteria bloom infestations. The people of Clearlake have lost all beneficial uses of Clear Lake south shores due to the toxins in the Lake from toxic cyanobacteria contamination. Cyanobacteria releases hepatoxins that can seriously affect humans pets and wildlife. The people who live at the shoreline have been experiencing health impacts such as asthma and nausea from the fumes coming from the decay of cyanobacteria which releases methane gas. One lady died from asthma according to York's management, Lizabeth Alvarez phone # 707-994-2213. Businesses are suffering devastating and crushing income loss and these occurrences have the potential to make Clearlake a ghost town due to uninhabitable conditions i.e. sulphur smells, miles of purple, brown algae mats up to a meter thick which are suffocating the shoreline along with loss of all beneficial uses of the water. The entire Lake is inundated with toxic cyanobacteria infestation. All efforts by the Central Valley Regional Water Quality Control Board to implement the voluntary nutrient TMDL have been halted due to the economy. There are no mandatory/regulatory efforts in place to reduce the nutrient and mercury runoff to Clear Lake. There are no sediment or pathogen 303(d) listings for Clear Lake. At this time LRC and FOCL would like to request that Clear Lake be listed for sediment and pathogens. The Sulphur Banks Mercury Mine, Herman Pit is a super fund site. The Herman Pit is discharging mercury and other heavy metals along with a Ph of 3 (acid) into Clear Lake. This toxic stew of contamination along with unlawful human discharges of nutrients is causing significant cumulative environmental impacts to Clear Lake. Low precipitation and diversions have concentrated the pollutants culminating in a rapid decline of Clear Lake's water quality. The only remedy is to stop the water withdrawals coming out of the Lake and allow Clear Lake to dilute the algae bloom for the rest of the summer through natural recharge from lake bottom recharge. This emergency request must be in effect throughout drought conditions in the future to continue to help the Lake cleanse itself from the pollution unabated due to lack of adequate TMDL implementation and continued lack of enforcement such as: sewer spills by the Lake County Special District especially around the City of Clearlake. Clear Lake water diversion must be modified or stopped as an emergency order to restore beneficial uses and relieve water quality for wildlife and people. This order begs that the SWRCB invoke their jurisdiction to restore health to Clear Lake. LRC and FOCL further urgently request that conservation of all water use reliant on Clear Lake be ordered to further restore water quality.

COMP (2-05)

Injury to Complainant or Public Trust Resources

The situation is causing injury to me or public trust resources as follows (attach additional sheets if necessary):

All fishing, swimming and recreation in Clear Lake (south shores) has been halted by order of Environmental Health that the water is dangerous to humans and pets.

Possible Resolution of Complaint

I offer the following possible solution to the situation (attach additional sheets if necessary):

The SWRCB has on-going jurisdiction and can provide relief to restore Clear Lake water quality and restore beneficial uses. Halting water diversions and or modifications by emergency order by the SWRCB can aide in the fresh water recharge of the lake through thermal springs and seeps, and subsurface ground water etc. There are no other remedies other than for the SWRCB to assert their jurisdiction to protect beneficial uses and enforce the Public Trust Doctrine and the Clean Water Act. Low flows coming into the Lake (drought and over diversions of tributaries plus natural drying of some tributaries) and diversion from Cache Creek (flows from Clear Lake) must be reevaluated for reallocations to diverters so that sufficient fresh water recharge and water surface elevations are adequate to cleanse Clear Lake and improve the water quality. The SWRCB must require that Clear Lake’s water quality and beneficial uses be restored.

Complainant’s Diversion and Water Rights (Fill in if Injury Claimed)

My diversion is located on: _____
(Name of Spring, Stream, or Body of Water)

At a point within _____ ¼ of _____ ¼ of Section _____ T _____ R, _____ B&M

County of _____ Assessor’s Parcel No. _____

I use water for (what and where): _____

The basis of my claim to divert water is:

- An appropriative right under License No. _____, Permit No. _____, Application No. _____
- A Riparian or pre-1914 claim supported by Statement of Water Diversion and Use No. _____
- Other (Describe): _____

A copy of this complaint has been sent to the Respondent by: Press Release to the Sacramento Bee, The San Francisco Chronicle, New York Times, The Los Angeles Times, and Wall Street Journal.

Certified Mail Regular Mail Personal Delivery

I declare under penalty of perjury that the above is true and correct to the best of my knowledge and belief.

Signature, Chris Malan, Manager Living Rivers Council

Date

Signature, John Zebelean, PhD, Consulting Scientist, Friends of Clear Lake

Date

NOTE: Send original Complaint to the Division of Water Rights and a copy to the Respondent.
Forms for submitting an Answer to Complaint will be sent to the Respondent by the
Division of Water Rights.