

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER 2024-00XX-DWR

**INFORMATION ORDER AND REPORTING REQUIREMENTS IN THE MATTER OF
WATER USE IN THE CLEAR LAKE WATERSHED**

Diversion, extraction, or water use related to the following Assessor Parcel Numbers

FINDINGS:

1. On March 24, 2023, Governor Newsom issued Executive Order N-5-23, which directs the State Water Resources Control Board (State Water Board or Board) and California Department of Fish and Wildlife to evaluate minimum instream flows and other actions needed to protect the Clear Lake hitch (hitch); work with water users, Native American Tribes, and other parties on voluntary measures; and consider emergency regulations to establish minimum instream flows to mitigate the effects of drought.
2. On September 29, 2023, the State Water Board's Division of Water Rights Cannabis Enforcement Section issued 226 Directive Notices to Enroll to those property owners within the Clear Lake Watershed who appear to be cultivating cannabis without an appropriative water right. The Notice requested that the recipients: 1) stop diverting water from April 1 through October 31st, and 2) obtain an appropriative water right that authorizes the diversion and use of water for cannabis and allows seasonal storage of water. Recipients were also instructed to cease water diversions until an appropriative water right for cannabis cultivation is issued. Our records indicate that you have not provided a response to the September 29, 2023, Notice, and that based upon available information you continue to divert and use water for cannabis cultivation without an appropriative water right.
3. On December 6, 2023, the State Water Board adopted the Emergency Information Order Regulations for the Clear Lake Watershed (Emergency Regulations or Regulations).¹ Board Resolution 2023-0044 adopted the Emergency Regulations and describes the need for the Regulations and their intent; that resolution is hereby incorporated by reference into this Order. The Regulations were approved by the Office of Administrative Law and became

¹ California Code of Regulations, title 23, section 1050 et seq.

effective upon filing with the Secretary of State on January 22, 2024.

4. The Emergency Regulations authorize the Deputy Director for the Division of Water Rights (Deputy Director) to issue, to some or all water users in the Clear Lake Watershed,² an order requiring them to provide information related to diversion, extraction,³ or use of water relevant to the Board's Clear Lake hitch protection efforts, including groundwater well location and depth, beneficial uses of diverted or extracted water, place of use of diverted or extracted water, volume and timing of diversions or extractions, the basis of right with supporting documents or other evidence, parcel information, or any other information relevant to forecasting use, impacts to surface flows, assessing compliance, or contingency planning for future impacts of drought.
5. The Deputy Director has determined that it is necessary to gather information on a specific category of water diversion and use as the locations, timing, and methods of surface water diversions and/or groundwater extractions to support cannabis cultivation may be influencing flows that are critical to the protection of the hitch. The information collected under the orders will inform the Board's evaluation of how cannabis cultivation in this watershed may be influencing creek flows that are critical for hitch spawning and migration and will assist the Board's efforts to protect the hitch population as well as other reasonable and beneficial uses of water in the watershed.

IT IS HEREBY ORDERED:

This Order shall take effect the day after issuance⁴.

1. "Recipients of this Order" means the owner of record or persons responsible for the land parcel(s) listed on page 1 of this Order and includes all agents, successors in interest, grantees, lessees, tenants, and assigns thereto. Recipients of this Order are responsible for collecting the information needed to respond to this Order.
2. Recipients of this Order shall:

² The Clear Lake Watershed as defined by California Code of Regulations, title 23, section 1050.

³ Diversion and extraction are defined in California Code of Regulations, title 23, section 1050, subdivisions (c) & (d).

⁴ Recipients of this Order may submit a petition within 30 days of the date of the Order to request that the State Water Board reconsider the Order. The process and grounds for reconsideration are provided by California Code of Regulations, title 23, sections 768 through 771. Any petition for reconsideration should be emailed to

DWR.CannabisEnforcement@waterboards.ca.gov

- a. Identify if cannabis was cultivated during the 2024 calendar year and include when cultivation started (MM/DD/YYYY).
 - b. Identify the water source (stream/creek name, unnamed stream, spring, or groundwater) used to irrigate cannabis. If the source is groundwater, provide the groundwater well completion report if available.
 - c. Provide the frequency of cannabis irrigation (how often: daily, every other day...etc.)
 - d. Identify the number of cannabis crops that will be cultivated in the 2024 season.
3. Recipients of this Order shall use the State Water Board's Cannabis Cultivation Program Portal at <https://public2.waterboards.ca.gov/cgo> to report the information listed in the previous paragraph.
 4. Recipients of this Order shall provide the requested information **within 30 days of receiving the Order**. The Deputy Director or delegee may grant additional time for submission of information upon substantial compliance with the specified deadline and a showing of good cause.
 5. The Division may issue additional requests pursuant to this Order, if necessary, to clarify or complete the initial information request and response as necessary. Any updates or modifications to this Order will be sent by email or posted online on the Clear Lake Order webpage.
 6. Violation of this Order shall be subject to enforcement and any applicable penalties, including but not limited to those authorized pursuant to Water Code sections 1052, 1058.5, and 1846. Pursuant to Water Code section 1846, failure to comply with an information order is subject to a penalty of up to five hundred dollars (\$500) per day.
 7. Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law.
 8. Nothing in this Order shall excuse individual water right holders or water users from meeting any more stringent requirements that may be imposed by applicable legally binding legislation, regulations, or a water right permit requirement.

Jule Rizzardo for EE

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: