

CLEAR LAKE WATERSHED EMERGENCY REGULATIONS

Memorandum of Understanding: Lake County Land Stewards

This Memorandum of Understanding (this “MOU”) sets forth the terms and understanding between the Lake County Land Stewards and its members and the State Water Resources Control Board pursuant to the Emergency Information Order Regulations for the Clear Lake Watershed (the “Emergency Regulations”).¹ Lake County Land Stewards and the State Water Resources Control Board are sometimes referred to in this MOU individually as a “Party” and collectively as the “Parties”)

The Lake County Land Stewards (hereinafter “LCLS”) is an association of landowners, which as of the execution of this Agreement are forming a nonprofit mutual benefit corporation organized and operated in accordance with the Mutual Benefit Corporation Law. LCLS shall be operated exclusively for educational, charitable, and scientific purposes within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986. LCLS’s mission is to address matters related to the protection and preservation of the orchards, vineyards, and farmlands located in Lake County and the businesses they serve, and the protection and preservation of the Lake County environment. By entering this Agreement, LCLS intends to help ensure a sustainable future for Clear Lake hitch and to better understand the drivers for its survival and recovery in the wild.

The State Water Resources Control Board (hereinafter “State Water Board”) was created by the California Legislature in 1967. The mission of the State Water Board is to preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. The State Water Board works with federal, state, and local agencies, as well as other environmental agencies to ensure a coordinated approach to protecting human health and the environment and makes water right permitting decisions based on information including water availability, senior water rights, flows needed to preserve instream uses, such as recreation and fish habitat, and whether the diversion is in the public interest.

Article 1. Background and Purpose

On December 6, 2023, the State Water Board adopted Emergency Regulations, effective January of 2024, that authorize the Division of Water Rights (the “Division”) to collect water use information in support of ongoing efforts to improve conditions for the Clear Lake hitch, a species endemic to the Clear Lake Watershed, listed as threatened under the California Endangered Species Act. The Emergency Regulations allow the Division’s Deputy Director to issue information orders that require some or all water users to report their water diversions, extractions, and other information to the State Water Board (the “Clear Lake Watershed Information Order(s)”).

The Emergency Regulations also allow the Division’s Deputy Director to approve alternative compliance mechanisms that provide water users with options for meeting reporting

¹ Cal. Code Regs., tit. 23, §§ 1050-1052.

requirements. These mechanisms provide flexibility and have the potential to improve reporting compliance, enhance data collection and monitoring, and support local collaborative solutions.

This MOU outlines the requirements for the LCLS Voluntary Compliance Program (the “Program”) as an alternative compliance mechanism pursuant to the Emergency Regulations. The Program allows LCLS to collect data from members of LCLS and submit information to the State Water Board in a format that addresses concerns about personal information while providing the State Water Board with the information it needs to support efforts to protect the Clear Lake hitch.

Article 2: Participation

Only members of LCLS as of January 1, 2024, are eligible to participate in the Program. LCLS members who participate in the Program and meet Program requirements (the “Program Participants”) will not receive a Clear Lake Watershed Information Order pursuant to the Emergency Regulations from the State Water Board.

Article 3: Work Plan

This work plan identified in this Article 3 outlines the tasks LCLS will complete to establish and implement the Program, the required due dates, data collection and compilation requirements, and data enhancement actions.

A. Tasks

LCLS will complete the tasks outlined in Table 1.

Table 1: Program Tasks and Due Dates

Task		Due Date
1	Select a licensed professional and notify the State Water Board. LCLS will select a Professional Engineer or Geologist, with a California license, to assist with data compilation and development of report datasets and summaries as discussed in section C. LCLS will notify the State Water Board in writing of the selection.	Within 7 days of signing this MOU
2	Provide LCLS Participant Agreement to the State Water Board. LCLS will develop a Program participation agreement with its members. This agreement will include the members’ parcel numbers and contact information. The agreement will be signed by each member.	Within 14 days of signing this MOU
3	Develop Data Collection Process LCLS will develop a data collection process that allows Program participants to submit Report 1 information by April 30, 2024 and Report 2 information by August 31, 2024 to the LCLS licensed professional. The data collection process will include plans for communicating with Program Participants and ensuring compliance.	Mar. 31, 2024
	<i>Program Participants submit Report 1 information to the LCLS licensed professional.</i>	Apr. 30, 2024
4	Submit Report 1 Summary to the State Water Board.	May 31, 2024

	LCLS will submit the Report 1 Summary to the State Water Board. Report summary requirements are discussed below in section C.	
5	Provide Data Enhancement Activities Update. LCLS will review their Data Enhancement Activities and give a status update to State Water Board.	June 30, 2024
	<i>Program Participants submit Report 2 information to the LCLS licensed professional.</i>	Aug. 31, 2024
6	Submit Report 2 Summary to the State Water Board. LCLS will submit the Report 2 Summary to the State Water Board. Report summary requirements are discussed below in section C.	Oct. 31, 2024
7	Provide Data Enhancement Activities Update. LCLS will review their Data Enhancement Activities and give a status update to State Water Board.	Dec 13, 2024
8	Participate in Scenario Planning Workshops. LCLS will participate in and encourage Program Participants to participate in the scenario planning workshops described in section E.	To Be Determined

B. Data Collection: Report 1 and Report 2

LCLS is responsible for collecting from Program Participants specific information related to the diversion, extraction, or use of water in the Clear Lake watershed relevant to the State Water Board's Clear Lake hitch protection efforts. This information is listed below in Table 2. Certain information must be collected during the Report 1 submission period and other information must be collected during the Report 2 submission period. Each Program Participant is responsible for filling out both Report 1 and Report 2 for **each** APN or field (a field is considered two or more contiguous parcels that are managed together).

LCLS will develop a data collection process by March 31, 2024, including plans for communicating with Program Participants and ensuring compliance. LCLS will ensure that each Program Participant submits the information on time and that the information submitted is correct, to the extent of LCLS's knowledge. LCLS will also notify the State Water Board of Program Participants who fail to comply with this MOU as described in Article 4.

State Water Board staff must approve the questions that will be included in LCLS data collection process. LCLS or the State Water Board may need to make modifications to questions, for example, to provide clarity or to better fit the capabilities of the reporting platform. Both Parties must communicate any such changes to the other Party. In addition, the State Water Board may make reasonable, technically justified modifications to the Report 2 questions to advance the purpose of the information order, based on the information received in the Report 1 Dataset Summary. Additional specifics related to 'Changes in Scope' and related dispute resolution are set forth in Section F below.

C. Data Submission: Reports 1 and 2 Summaries

Section C outlines the requirements for the Reports 1 and 2 Summaries that LCLS shall submit to the State Water Board. LCLS shall work with a licensed professional to conduct reasonable data QA/QC of the collected data, and to create and maintain the Summaries. The intention of the Program is to protect as much personal information as feasible while

providing the data that the State Water Board needs to support efforts to protect the Clear Lake hitch.

In the Reports 1 and 2 Summaries, LCLS will provide some Program Participant information individually based on a specific location, where necessary to advance the purposes of the information order and based on the nature of the information involved. For example, the location, attributes, and construction information for a well must be submitted together and tied to the well's location coordinates. For all other information, LCLS will provide participant information in a combined form based on a larger geographic location. For example, weekly groundwater extraction information may be submitted for a Section of the Public Land Survey System, which covers approximately one square mile and may include multiple parcels. In this example, the individual parcels would not be identified.

LCLS may coordinate with the Lake County Farm Bureau to submit combined Report Summaries to the State Water Board as long as the information requirements and deadlines for each are met as provided for in this MOU. If the Reports 1 and 2 Summaries include both LCLS and Lake County Farm Bureau Education Corporation Pathway Program Participant information, they may share the same larger geographic location setup.

The size of geographic locations, the participant information associated with those locations, and how participant information must be presented within those locations will be determined by the State Water Board, in consultation with LCLS and their licensed professional.

Table 2: Data Collection and Report Summary Requirements

Table 2 describes the information that LCLS must collect from each Program Participant and which report the information corresponds to. Specific questions may not be applicable to all Program Participants; for example, someone who does not irrigate crops does not need to answer crop irrigation questions.

As stated in Article 3, Section B, of this MOU, LCLS or the State Water Board may need to make modifications to these questions. While the Parties do not anticipate substantive changes to the questions, the Parties acknowledge final questions may be worded differently or presented in a different order in the reporting platform. Any substantive changes shall be made at least seven days before the report opens with notice to LCLS of the changes. Other changes, such as changes to improve clarity, may be made at any time. If such changes are made after a Program Participant submits a report, they will not have to resubmit the report.

Table 2: Data Collection Questions

Category	Questions	Report
Contact Information	First and last name, email address, mailing address, phone number for landowner and (if different) reporter	1 and 2
Parcels	Assessor Parcel Numbers and (if applicable) fields	1 and 2
Enhanced Data	Are you participating in data collection and monitoring programs and/or are you interested in participating?	1
Water Use	Do you use surface water? Do you use groundwater? Do you have any other water sources?	1

	Describe water use purpose(s).	
Surface Water	What is your surface water source? If you have a surface water right, enter your water right ID number(s)	1
Groundwater Wells	How many active wells are on this property?	1
Groundwater Well Attributes	By well: • What do you use this well for? • Latitude/longitude to 4 decimals • Total depth and depths of the uppermost and lowermost screens • Typical pumping rate and how you know the rate • Maximum pumping rate • Well completion reports, construction information, well pump tests, or aquifer pump tests (if available) • Anything else you would like to share (optional)	1
Groundwater Use	Do you use a meter? How do you plan to measure weekly groundwater extraction for March 1 – July 31, 2024?	1
Irrigated Crops	How many crops do you have? By crop type: • Crop type • Irrigated acreage • Irrigation start date for 2022 and 2023 • Do you frost protect? If so, what is the method? • Which months do you normally frost protect? • Anything else you would like to share (optional)	1

Category	Questions	Report
Storage	How do you store water? How much water do you store? How do you fill your storage pond or tanks? Are you interested in increasing storage capacity?	1
Final Comments	How did your water use change during the 2020-2022 drought? Provide any thoughts or suggestions regarding water use in the Clear Lake watershed (optional) Please upload photos, documents, maps, or anything else you think is relevant to water use in the Clear Lake watershed or the Clear Lake hitch emergency (optional)	1
Irrigated Crops	By crop type: • 2024 irrigation start date and frost protection dates	2
Groundwater Use	By well: • How much groundwater did you extract, weekly, for March 1 – July 31, 2024? • Groundwater well totalizing meter data (optional)	2

D. Data Enhancement Activities

LCLS emerged from an initial group of landowners who were concerned about the Clear Lake hitch and contacted the State Water Board in early 2023 following the Board's public listening sessions and the mailout of a request for voluntary actions. LCLS began planning for data collection and analysis to better understand the drivers of Clear Lake hitch survival and recovery in the wild, and created a draft LCLS Voluntary Clear Lake Hitch Conservation Plan in spring 2023 (the "LCLS Conservation Plan"). LCLS began work prior to the adoption of the Emergency Regulations, and both the timeline and scope of their work is intended to be more expansive than that required of Clear Lake Watershed Information Order recipients. The Parties enter this MOU with the intent to continue working together to better understand what drives Clear Lake hitch survival and recovery.

As such, the LCLS Program includes Data Enhancement Activities, adapted from the LCLS Conservation Plan, to help the State Water Board better understand how groundwater pumping impacts surface flows that are critical for Clear Lake hitch spawning, rearing, and migration. LCLS will complete the following tasks according to the due dates listed in Table 3 below. LCLS will provide ongoing, informal updates to the State Water Board and will complete two formal reports by June 30, 2024, and December 13, 2024, regarding the status of and any changes to the Data Enhancement Activities. Upon the Parties' prior consultation and coordination, these formal updates may be a written update, a meeting with staff, or a presentation at a State Water Board Meeting. To that end, the Parties commit to continue to communicate and coordinate on the status of the activities and efforts related to the data gathering delineated in this MOU and the Clear Lake Watershed Information Order, and consult with each other on ways to adaptively manage such efforts as new information is collected and analyzed.

Table 3: LCLS Data Enhancement Activities

Task	Description	Deliverables and Due Dates
Surface Water Monitoring	Stream gages measure the amount of water flowing through a stream. Continuous stream gage measurements can help identify changes in the amount of streamflow overtime.	• Provide list of stream gages, their locations, and status to State Water Board on or around June 30, 2024 • Make a plan for how to share data publicly on or around June 30, 2024 • Install up to 15 (fifteen) stream gages by or around the end of April 2024 • Maintain stream gages through 2027 or the life of the equipment • Make stream gage data publicly available on or around June 30, 2024

Groundwater Level Monitoring	Agricultural stakeholders and landowners who voluntarily participate in well-level monitoring will contract with an approved vendor and have instruments (transducers) installed that measure and record water levels within wells on their properties. Readings are gathered, recorded and uploaded automatically on ten-minute intervals, stored, and transmitted to the technical consultant for analysis.	• Provide list of groundwater level monitor locations and status to State Water Board on or around June 30, 2024 • Provide a preliminary report to the State Water Board on or around June 30, 2024 • Maintain transducers through 2027 or the life of the equipment, whichever is shorter
Temperature Inversion Study	LCLS are working with partners at the University of California Cooperative Extension to collect data for a study of temperature activity across various agricultural zones of Lake County during frost events. The intent is to determine if specific parts of the region may be better suited for wind machine-type frost protection, and to better understand patterns of cooling and air movement in the agricultural zones of Lake County	• Ongoing study with an anticipated completion date of or around December 2025
Streambed Management – Barrier Identification and Removal	Landowners whose properties include riparian holdings along the Clear Lake tributaries are often the first to observe the fallen trees and limbs, accumulations of debris, and shifts in flow that can present physical impediments to hitch runs. LCLS will continue to work to identify options to remove barriers to flow in streams in which Clear Lake hitch reside.	• Barrier removal of one instream barrier began on or around Fall 2023. • LCLS members will continue to coordinate with the State Water Board and other stakeholders on identifying options and permitting requirements for additional barrier removals.
Pump-backs	In coordination with government agencies and where the appropriate authority and permitting are obtained, LCLS are willing to study the feasibility of providing water pumped from their private wells and reservoirs to temporarily support hitch habitat during times of low or disconnected creek flows. Any potential projects must be informed by the latest	• Explore feasibility for landowners to file a Notice of Intent (NOI) to discharge under Order R5-2022-0006 (Waste Discharge Requirements Limited Threat Discharges to Surface Water) to the Central Valley Regional Water Board, including

	science and contribute to future research and monitoring efforts.	water quality testing requirements on or around December 2024 • Continue to coordinate among federal and state agencies and Program Participants to identify processes and funding sources for potential pump-backs.
Additional Monitoring, Adaptive Management, and Continued Coordination	To the extent necessary to effect the purposes of this MOU, LCLS will assist the State Water Board in finding locations for additional data collection or monitoring, including stream gages, groundwater monitoring wells, continuous groundwater level monitors, and aquifer pump tests. LCLS will continue to coordinate and communicate with the State Water Board on efficacy and utility of current and anticipated efforts related to the Data Enhancement Activities and work with the State Water Board on improving the efficacy and utility of those efforts. LCLS will continue to coordinate and communicate with the State Water Board on other related efforts not specifically included herein.	

E. Scenario Planning Workshops

The State Water Board or its contractor may host scenario planning workshops in 2024 on topics related to the Clear Lake hitch. These workshops will provide a forum for participants to consider possible future outcomes for the Clear Lake watershed, including potential future regulations. Discussion topics may include how potential regulations might affect participants, how potential regulations could be implemented most effectively, how on-the-ground realities could affect the various scenarios considered, and how local actions might mitigate the need for some regulatory features. LCLS will invite all Program Participants to take part in these workshops. Any Program Participants who participate in these workshops will represent themselves in the workshops and not LCLS.

F. Changes to Scope; Disputes

Either Party may propose a change to the work plan, in writing. The other Party must accept or reject the potential change in writing. Both Parties have the right to terminate this MOU at any time. Should LCLS terminate this MOU, all Program Participants will be issued a Clear Lake Watershed Information Order and required to report directly to the State Water Board pursuant to the Emergency Regulations.

Article 4: Oversight and Compliance

LCLS

- LCLS will complete all tasks outlined in Article 3 according to the due dates listed in Table 1.
- LCLS will notify the State Water Board as soon as possible if LCLS cannot complete a task or meet a due date.
- If a participant is noncompliant with or withdraws from the Program, LCLS will notify the State Water Board in writing within 5 days.
- LCLS will provide unofficial progress updates prior to official task deadlines as available.
- LCLS will respond via email to the State Water Board Point of Contact within two business days of receiving requests related to documents or updates listed in Table 1 and within a reasonable window for other communications.

State Water Board

- The State Water Board Point of Contact will respond via email to LCLS Point of Contact within two business days of receiving documents or updates listed in Table 1 and within a reasonable window for other communications.
- The State Water Board maintains the ability to require direct reporting under the information order from any or all participants in LCLS Program should the participant(s) become noncompliant. Examples of noncompliance include, but are not limited to, not submitting a report to LCLS, or submitting data known by LCLS to be false.
- The State Water Board commits to employ good faith efforts to resolve any related issue or dispute with LCLS.

Article 5: General Provisions

- A. This MOU is signed by the executive leadership and deputy director for the parties. For each Party, implementation is conditioned upon and subject to review and approval by the decisional body of the Party, if required. By signing this MOU, the parties agree to advance the Program to the decisional body, if necessary, for consideration.
- B. Should no subsequent review or approval by decisional bodies be required, this MOU will be effective from the date of execution by the parties, the last signature to be that of the State Water Board, and shall continue through the expiration of the

Emergency Regulations unless terminated earlier in accordance with the terms of this MOU.

- C. This MOU may be updated or amended at any time provided the Parties agree to any such update or amendment in writing. The points of contact for the respective Parties identified below have the authority to bind their respective Party to any such written amendment. Either Party may change their respective point of contact by written notice to the other Party.
- a. LCLS point of contact: Will Weiss
 - i. Email: wweiss@bvfarming.com
 - ii. Phone: (707) 279-4220
 - b. State Water Board point of contact: Jessica Bean
 - i. Email: jessica.bean@waterboards.ca.gov
 - ii. Phone: (916) 341-5849
- D. This MOU shall remain in effect through December 31, 2025, regardless of the status of the Emergency Regulations.
- E. Nothing in this MOU is intended to modify or supersede the independent authority or discretion of any Party. Nothing in this MOU is intended to exercise, modify, or supersede the regulatory authority of any Party that is a regulatory agency or any subordinate agency of such party.

SIGNATORY PARTIES TO THE
MEMORANDUM OF UNDERSTANDING: LAKE COUNTY LAND STEWARDS

LAKE COUNTY LAND STEWARDS

By: Will Weiss
Its: Executive Director

Date

STATE WATER RESOURCES CONTROL BOARD

By: Erik Ekdahl
Its: Deputy Director, Division of Water Rights

Date

MOU signed and dated: May 3, 2024

A signed copy is available upon emailed request to: clearlakehitch@waterboards.ca.gov