

**MEMORANDUM OF UNDERSTANDING: LAKE COUNTY FARM BUREAU  
EDUCATION CORPORATION PATHWAY**

*February 23, 2024*

This Memorandum of Understanding sets forth the terms and understanding between the Lake County Farm Bureau and the State Water Resources Control Board for an alternative compliance mechanism pursuant to the Emergency Information Order Regulations for the Clear Lake Watershed.<sup>1</sup>

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The Lake County Farm Bureau (hereinafter “LCFB”) is a non-profit corporation under and pursuant to the provisions of Title 12, Part 4, Division 1 of the Civil Code of California. The relevant purposes of the Lake County Farm Bureau for purposes of this MOU are:

(a) to work for the solution of the problems of the farm, the farm home, and the rural community, by the use of the recognized advantages of organized action to the end that those engaged in the various branches of agriculture may have opportunity for happiness and prosperity in their chosen work;

(b) to further the social, educational and recreational welfare of its members in any wholesome and beneficial manner;

(c) to unite farmers of the county in one farm organization and to work for the promotion and protection of interests common to all farmers in [Lake County].

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

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<sup>1</sup> The Emergency Regulations refer to the Emergency Information Order Regulations for the Clear Lake Watershed (Cal. Code Regs., tit. 23, Ch. 4.6, Sec. 1050-1052.), which were adopted by the State Water Board on December 6, 2023, and approved by the California Office of Administrative Law January 22, 2023, effective for a period of one year, through January 22, 2025, unless extended by the State Water Board in conformance with the California Administrative Procedures Act (Gov. Code section 11340, *et seq.*) (“Emergency Regulation”)

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.

## **AGREEMENT**

### Article 1. Background and Purpose

On December 6, 2023, the State Water Board adopted Emergency Regulations, effective January of 2025, that authorize the Division of Water Rights (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 water users to report their water diversions, extractions, and other information to the State Water Board.

The Emergency Regulations also allow the Division's Deputy Director to approve alternative compliance mechanisms<sup>2</sup> that provide water users with options for meeting reporting 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 Lake County Farm Bureau Education Corporation Alternative Compliance Pathway (hereinafter "Pathway") as an alternative compliance mechanism pursuant to the Emergency Regulations. The Pathway allows LCFB to collect data from participants 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

Any person who receives an information order is eligible to participate in the Pathway. Participants do not need to be members of LCFB, although Participants who are LCFB active agricultural Farm Bureau members at the time of enrollment and for the duration of the 2024 Emergency Regulation qualify for a waiver of the LCFB initial enrollment fee for non-members. Information order recipients who enroll in the Pathway and meet the Pathway requirements are considered in compliance with the information order and do not need to submit Report 1 and Report 2 directly to the State Water Board. However, information order recipients who enroll and meet Pathway requirements must notify the State Water Board of their participation in the Pathway no later than February 29, 2024.

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<sup>2</sup> Cal. Code Regs., tit. 23, § 1051(b).

### Article 3: Work Plan

This work plan outlines the tasks LCFB will complete to establish and implement the Pathway, required due dates, data collection and compilation requirements, and data enhancement actions.

#### A. Tasks

LCFB will complete the tasks outlined in Table 1.

**Table 1: Pathway Tasks and Due Dates**

| <b>Task</b>   | <b>Due Date</b>      |
|---|----------------------|
| 1 <b>Select a Licensed Professional and Notify the State Water Board.</b><br>LCFB 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. LCFB will notify the State Water Board in writing of the selection.  | Feb. 2, 2024         |
| 2 <b>Develop Enrollment Process.</b><br>LCFB will develop a process that allows any person who receives an Information Order to enroll in the Pathway by February 29, 2024. Individuals may enroll in the Pathway as soon as they receive the Order.  | Feb. 2, 2024         |
| <i>Recipients of an Information Order notify the State Water Board if they will participate in the Pathway to comply with the Information Order.</i>  | <i>Feb. 29, 2024</i> |
| 3 <b>Develop Data Collection Platform and Process</b><br>LCFB will develop a data collection platform and process that allows Pathway participants to submit Report 1 by March 31, 2024, and Report 2 by August 31, 2024. The data collection platform will open for Report 1 submissions no later than March 1, 2024, and Report 2 submissions no later than August 1, 2024.                         | Mar. 1, 2024         |
| 4 <b>Submit Pathway Participant List to the State Water Board.</b><br>LCFB will submit a list of Pathway participants to the State Water Board. The list must include each participant's name, mailing address, email address, phone number, and assessor parcel numbers (APNs).  | Mar. 15, 2024        |
| <i>Pathway participants submit Report 1 to LCFB.</i>  | <i>Mar. 31, 2024</i> |
| 5 <b>Notify the State Water Board of Report 1 Noncompliance.</b><br>LCFB will notify the State Water Board in writing of participants who have not submitted or did not complete Report 1. The list must include each participant's name, mailing address, email address, phone number, assessor parcel numbers (APNs), and a summary of the compliance issue and LCFB's attempts to gain compliance. | Apr. 15, 2024        |
| 6 <b>Submit Report 1 Summary to the State Water Board.</b><br>LCFB will submit the Report 1 Summary to the State Water Board. The Summary includes a narrative portion and datasets. Further requirements are discussed in section C.   | Apr. 30, 2024        |

| Task  | Due Date         |
|---|------------------|
| <b>7 Develop Data Enhancement Plan.</b><br>LCFB will develop a data enhancement plan in coordination with the State Water Board that meets the requirements outlined in section D. The plan will identify how many actions are required, how many are already accounted for by the participants, and the actions and timelines to fill the remaining actions.   | Apr. 30, 2024    |
| <b>8 Report 2 Data Submission Platform Active.</b><br>LCFB will ensure that its data collection platform is available for Report 2 data submission no later than August 1, 2024. Questions and data submission for Report 2 will include any necessary updates or modifications incorporated at the request of and in coordination with the State Water Board as described in Sections B and F.       | Aug. 1, 2024     |
| <i>Pathway participants submit Report 2 to LCFB.</i>  | Aug. 31, 2024    |
| <b>9 Notify the State Water Board of Report 2 Noncompliance.</b><br>LCFB will notify the State Water Board in writing of participants who have not submitted or did not complete Report 2. The list must include each participant's name, mailing address, email address, phone number, assessor parcel numbers (APNs), and a summary of the compliance issue and LCFB's attempts to gain compliance. | Sep. 16, 2024    |
| <b>10 Submit Report 2 Summary to the State Water Board.</b><br>LCFB will submit the Report 2 Summary to the State Water Board. Report summary requirements are discussed below in section C. With adequate notification and consultation, this due date may be adjusted to accommodate harvest season.  | Oct. 31, 2024    |
| <b>11 Participate in Scenario Planning Workshops.</b><br>LCFB will participate in and shall use good faith best efforts to encourage a target participation level of at least 30 percent of all Pathway participants in scenario planning workshops described below in section E.   | To Be Determined |

*B. Data Collection: Report 1 and Report 2*

LCFB is responsible for collecting from Pathway 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 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).

LCFB will develop a data collection platform by March 1, 2024. The data collection platform will open for Report 1 submissions no later than March 1, 2024, and Report 2 submissions no later than August 1, 2024. State Water Board staff must approve the questions that will be included in LCFB reporting platform. LCFB 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 software. Both Parties must communicate any such changes to the other party. In addition, the State Water Board may make reasonable, technically justified

modifications to questions to Report 2 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.

LCFB will develop a process for the data collection by March 1, 2024, including plans for communicating with participants and ensuring compliance. LCFB will ensure that each participant submits the information on time and that the information submitted is correct, to the extent of LCFB's knowledge. LCFB will also notify the State Water Board of noncompliant participants as described in Table 1.

### *C. Data Submission: Report 1 and 2 Summaries*

This section outlines the requirements for the Report 1 and 2 Summaries that LCFB must submit to the State Water Board. LCFB must 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 Pathway 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.

To that end, the personal identifying information collected from participants (contact information and APNs) will be submitted to the State Water Board separately from the other required information. For the other required information, each participant will be assigned a unique Pathway Identification Number so that their responses correspond to that number rather than to their personal identifying information. LCFB will maintain a crosswalk between the Pathway Identification Numbers and personal identifying information.

In the Report 1 and 2 Summaries, LCFB will provide some participant information individually based on a specific location, where necessary based on the nature of the information involved and to advance the purposes of the information order. 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, LCFB 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 includes multiple parcels. In this example, the individual parcels would not be identified, just the Section.

The larger 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 LCFB and their licensed professional, and communicated to Pathway participants no later than March 15, 2024, once all participants have enrolled in the Pathway.

### **Table 2: Data Collection and Report Summary Requirements**

Table 2 describes the information that LCFB must collect from each participant, what information will be reported by Pathway Identification Number (PIN) or personal identifying information (PII), and which report the information corresponds to. Specific questions may not be applicable to all participants; for example, someone who does not irrigate crops does not

need to answer crop irrigation questions. As stated in Section B, LCFB or the State Water Board may need to make modifications to these questions. The parties do not anticipate substantive changes to the questions, but the final questions may be worded differently or presented in a different order in the reporting platform. If substantive changes are required, they will be made at least seven days before the report opens. Other changes, such as changes to improve clarity, may be made at any time. If such changes are made after a participant submits a report, they will not have to resubmit the report.

**Table 2: Data Collection Questions**

| Category                    | Questions  | Attach to | Report  |
|-----------------------------|--|-----------|---------|
| Contact Information         | First and last name, email address, mailing address, phone number for landowner and (if different) reporter  | PII       | 1 and 2 |
| Parcels                     | Assessor Parcel Numbers and (if applicable) fields   | PII       | 1 and 2 |
| Enhanced Data               | Are you participating in data collection and monitoring programs and/or are you interested in participating?   | PIN       | 1       |
| Water Use                   | Do you use surface water?<br>Do you use groundwater?<br>Do you have any other water sources?<br>Describe water use purpose(s).   | PIN       | 1       |
| Surface Water               | What is your surface water source?<br>If you have a surface water right, enter your water right ID number(s)   | PIN       | 1       |
| Groundwater Wells           | How many active wells are on this property?  | PIN       | 1       |
| Groundwater Well Attributes | By well: <ul style="list-style-type: none"> <li>• What do you use this well for?</li> <li>• Latitude/longitude to 4 decimals</li> <li>• Total depth and depths of the of the uppermost and lowermost screens</li> <li>• Typical pumping rate and how you know</li> <li>• Maximum pumping rate</li> <li>• Well completion reports, construction information, well pump tests, or aquifer pump tests (if available)</li> <li>• Anything else you would like to share (optional)</li> </ul> | PIN       | 1       |
| Groundwater Use             | Do you use a meter?<br>How do you plan to measure weekly groundwater extraction for March 1 – July 31, 2024?   | PIN       | 1       |
| Irrigated Crops             | How many crops do you have?<br>By crop type: <ul style="list-style-type: none"> <li>• Crop type</li> <li>• Irrigated acreage</li> <li>• Irrigation start date for 2022 and 2023</li> <li>• Do you frost protect? If so, what is the method?</li> <li>• Which months do you normally frost protect?</li> <li>• Anything else you would like to share (optional)</li> </ul>  | PIN       | 1       |

| Category        | Questions  | Attach to | Report |
|-----------------|--|-----------|--------|
| Storage         | How do you store water?<br>How much water do you store?<br>How do you fill your storage pond or tanks?<br>Are you interested in increasing storage capacity?   | PIN       | 1      |
| Final Comments  | How did your water use change during the 2020-2022 drought?<br>Provide any thoughts or suggestions regarding water use in the Clear Lake watershed (optional)<br>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) | PIN       | 1      |
| Irrigated Crops | By crop type:<br><ul style="list-style-type: none"> <li>2024 irrigation start date and frost protection dates</li> </ul>   | PIN       | 2      |
| Groundwater Use | By well:<br><ul style="list-style-type: none"> <li>How much groundwater did you extract, weekly, for March 1 – July 31, 2024?</li> <li>Groundwater well totalizing meter data (optional)</li> </ul>  | PIN       | 2      |

#### *D. Data Enhancement Plan*

The Pathway will include a Data Enhancement Plan that helps the State Water Board better understand how groundwater pumping may impact surface flows needed for hitch spawning, rearing, and migration. As indicated in Table 1 above, the Data Enhancement Plan is due no later than April 30, 2024. The Data Enhancement Plan will be developed by LCFB in coordination with State Water Board staff, with the State Water Board’s final approval. The plan will identify the total number of Data Enhancement Actions required, any existing efforts that may be credited toward the total number of required actions, and any additional actions needed to meet the total number of required actions. The number of Data Enhancement Actions shall equal 10 percent of the number of parcels enrolled in the Pathway or a maximum of 30 actions, whichever is met first. Table 3 describes possible enhanced data actions and how those actions will be credited toward the total requirement – some actions are of higher value and worth more than others. Below the table is an example of how LCFB could meet the data enhancement requirements.

**Table 3: Data Enhancement Actions**

| <b>Action</b>                                | <b>Details*</b>  | <b>Credits</b>  |
|--|--|---|
| Aquifer Pump Test                            | This action allows state agencies <sup>3</sup> to conduct an aquifer pump test. An aquifer pump test requires two to three wells within a 1000-foot radius and usually takes one to two weeks to complete. The state may be able to pay for the test, including any costs associated with moving and replacing existing pumps. An aquifer test measures how water levels respond to pumping from a well. The data collected from the test are used to estimate the hydraulic properties of the aquifer and identify aquifer boundaries. The Division may also consider historical pump tests that meet certain requirements.   | One aquifer pump test is worth six of the total required actions.   |
| Dedicated Groundwater Monitoring Well        | This action allows state agencies to (1) access and monitor an existing dedicated groundwater monitoring well or (2) access a parcel where the state can install and monitor a dedicated groundwater monitoring well. The state may be able to pay for well installation and well monitoring. Dedicated groundwater monitoring wells are constructed specifically for measuring groundwater levels. They are typically small in diameter and groundwater is not extracted from them. Continuous groundwater level measurements can help identify short and long-term changes in groundwater storage, groundwater recharge rates, and the direction and rate of groundwater flow. | One dedicated groundwater monitoring well for a minimum of 24 months is worth six of the total required actions. <sup>4</sup> |
| Continuous Groundwater Level Monitoring Well | This action allows state agencies to (1) access and continually monitor an existing groundwater level monitoring well or (2) install continuous monitoring equipment in and monitor an existing groundwater well. The state may be able to pay for equipment installation and well monitoring. Wells enrolled in continuous well monitoring programs can also meet this requirement. Continuous groundwater level measurements can help identify short and long-term changes in groundwater storage, recharge rates, and the direction and rate of groundwater flow.   | Each continuous groundwater level monitoring well for a minimum of 24 months is worth one action.                             |
| Surface Water Monitoring                     | This action allows state agencies to access a parcel where the state can install and monitor a stream gage. 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.   | Each stream gage providing information for a minimum of 24 months is worth one action.  |

<sup>3</sup> State agencies include the State Water Board, Department of Water Resources and Department of Fish and Wildlife.

<sup>4</sup> While the action described in the table supposes a duration of a minimum of 24 months, the parties understand that the scope of this MOU is the one-year duration of the present Emergency Regulation, unless the Pathway is extended by subsequent agreement of the parties.



In identifying data enhancement actions, the State Water Board will coordinate with LCFB and impacted landowners to develop rules for communication, access, or other necessary functions to implement data enhancement actions.

### Example Data Enhancement Plan

The following is an example of how the Data Enhancement Plan requirements could be met. If 300 parcels are enrolled in the Pathway, LCFB will have to include **30 enhanced data actions**:

- One property owner allows a state agency to drill a monitoring well near Kelsey Creek. This high-value action is worth **6 actions**.
- One property owner has two wells available for an aquifer pump test. The pump test will be conducted by a state agency at no cost to the landowner but will take two weeks during which the wells will not be available for production. This high-value action is worth **6 actions**.
- Two property owners host stream gages with publicly available data. This is worth **2 actions**.
- Two property owners allow a local tribe to install continuous well monitors in their production wells and agree to continue to do so for the next two years. This is worth **2 actions**.
- Ten property owners already allow the County/GSA to periodically check groundwater levels in their wells and volunteer to upgrade to continuous well monitors for the next two years. The monitors are installed and maintained at no cost to the property owner. This is worth **10 actions**.
- LCFB needs **4 more actions** and asks the State Water Board to help assess potential locations and activities. After some negotiation, one continuous well monitor is installed in a previously unmonitored domestic well, one property owner provides access to a fish rescue and water quality monitoring site, one landowner volunteers to have a well meter installed on a production well, and one extra action is given for one of the stream gages, which is permanently installed. **The enhancement requirement is now met.**

### Other Data Enhancement Options

Consideration may be given to existing cooperative projects that meet the Data Enhancement Requirements set forth above. State Water Board staff will be available to help upgrade instruments and draft agreements to help new and existing projects fulfill these requirements. Alternative Data Enhancement Actions may be considered and approved by the State Water Board on a case-by-case basis. State Water Board staff may approve changes to the requirements on a case-by-case basis, acknowledging that there may be other ways to provide enhanced data or engage in meaningful projects. All data collected through enhanced data actions will be made publicly available, except personally identifiable information such as personal addresses, emails, and telephone numbers.

#### *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.<sup>5</sup> LCFB will invite all Pathway participants to take part in these workshops and shall use good faith best efforts to encourage a target participation level of at least 30 percent of all Pathway participants in the workshops. Participants must themselves participate in the workshops. LCFB will also participate in these workshops.

#### *F. Changes to Scope; Disputes*

The State Water Board reserves the right to change the scope of work from that originally identified in this MOU. Such changes must be related to the diversion, extraction, or use of water in the Clear Lake watershed relevant to the Board's Clear Lake hitch protection efforts and could occur, for example, if the State Water Board needs new data about water use regarding the Clear Lake hitch. The State Water Board will notify LCFB of any such changes in writing via an email to LCFB Point of Contact (noted in Article 6).

If LCFB would like to make a change to the scope of work, LCFB Point of Contact must email the State Water Board Point of Contact to request the change. It is within the State Water Board's discretion whether to accept the potential change. LCFB has the right to terminate this MOU. Should LCFB terminate this MOU, all participants will be required to report directly to the Board.

Except as otherwise provided in this MOU, any dispute concerning a question of fact arising under or relating to the performance of this MOU, which is not disposed of by subsequent mutual agreement of the parties, shall be decided by the State Water Board.

#### Article 4: Oversight and Compliance

##### LCFB

- LCFB will complete all tasks outlined in Article 3 according to the due dates listed in Table 1.
- LCFB will notify the State Water Board as soon as possible if LCFB cannot complete a task or meet a due date.
- If a participant withdraws from the Pathway, LCFB will notify the State Water Board in writing within 5 days.
- LCFB will provide unofficial progress updates prior to official task deadlines as available.

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<sup>5</sup> The "scenario planning workshops" are intended for general listening and coordination purposes and are *not* intended to substitute for, or prejudge any subsequent, formally noticed public workshops or hearings relating to any eventual regulatory action or deliberations of the State Water Board.

- LCFB 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 LCFB 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 LCFB Alternative Compliance Program should the participant(s) become noncompliant. Examples of noncompliance include, but are not limited to, not confirming participation with LCFB, not submitting a report to LCFB, or submitting data known by LCFB to be false.
- The State Water Board commits to employ good faith efforts to resolve any related issue or dispute with LCFB. LCFB

#### 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 Pathway to the decisional body, if necessary, for consideration.
- B. Should no subsequent review nor 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 Emergency Regulations unless terminated earlier in accordance with the terms of this MOU.
- C. This MOU may be updated or amended at any time while it is in effect if the points of contact identified below agree to the change in writing, which may be in electronic format. Either party may change their respective point of contact by written notice.
  - a. LCFB point of contact: Rebecca Harper
  - b. State Water Board point of contact: Jessica Bean
- D. If the Emergency Regulations are extended beyond January of 2025 or replaced by another similar regulation or equivalent non-regulatory data collection and monitoring effort, the parties are free to mutually agree to extend the third-party Pathway mechanism as appropriate. Additionally, if the Emergency Regulations are extended beyond January of 2025 or replaced by another similar regulation or equivalent non-regulatory data collection effort, either party is free to withdraw from the Pathway.

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 FARM BUREAU EDUCATION  
CORPORATION PATHWAY

LAKE COUNTY FARM BUREAU

Rebecca Harper

02/28/24

By: Rebecca Harper  
Its: Executive Director

Date

STATE WATER RESOURCES CONTROL BOARD

Erik Ekdahl

02/23/2024

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

Date