



# State Water Resources Control Board



## Executive Office

901 P Street • Sacramento, California 95814 • (916) 657-1940  
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000  
FAX (916) 657-1485 • Web Site Address: <http://www.swrcb.ca.gov>

**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

**Gray Davis**  
Governor

## NOTICE OF PUBLIC HEARING

### Regarding

**State Water Resources Control Board will hold a hearing regarding  
Administrative Civil Liability Complaint No. 262.5-13**

**Against Mr. John B. Gladstein**

**Unnamed Stream in Sonoma County**

**Commencing May 9, 2000, at 9 A.M.**

**(or as soon thereafter as the matter may be heard)**

**at**

**State Water Resources Control Board**

**Paul R. Bonderson Building**

**First-Floor Hearing Room**

**901 P Street, Sacramento, CA**

### SUBJECT OF HEARING

The purpose of this hearing is to receive evidence regarding adoption of [an order imposing administrative civil liability](#) against Mr. John B. Gladstein in the amount of \$500, or some other amount, for an unauthorized diversion of water.

### BACKGROUND

By letter dated July 27, 1998, the State Water Resources Control Board (SWRCB), Division of Water Rights (Division), notified Mr. John B. Gladstein that a reservoir located on his property was not authorized by any water right known to the Division. The Division's July 27, 1998, letter requested that Mr. Gladstein identify an existing water right for the reservoir or file a water right application. Mr. Gladstein did not respond to the July 27, 1998 letter. Division staff conducted a field inspection on December 2, 1998, and found a reservoir

with an approximate capacity of 19 acre-feet created by a dam on an unnamed stream channel.

By certified letter dated February 24, 1999, Mr. Gladstein was advised of the Division's findings and advised that unless a water right application was submitted within 30 days, enforcement action could be taken without further notice. No application was submitted.

Pursuant to Water Code section 1055(a), the SWRCB's Executive Director issued Administrative Civil Liability (ACL) Complaint No. 262.5-13 on May 6, 1999, in the amount of \$500, against Mr. John B. Gladstein. This complaint was issued for the illegal storage of water in a reservoir collecting water from an unnamed stream within the Maacama Creek watershed in Sonoma County.

By letter dated May 25, 1999, Mr. Gladstein requested documents by which he could

appeal the conclusions in the ACL complaint. Mr. Gladstein's letter states that he has taken no action to divert water to the reservoir on his property and that he does not believe he is diverting water from a particular source for beneficial use. The letter states that the water at issue is used by the California Department of Forestry for fire protection in nearby counties.

Water Code section 1055 provides that a party against whom an ACL complaint has been issued may request a hearing before the SWRCB. In response to Mr. Gladstein's May 25, 1999 letter, the SWRCB has scheduled a hearing on the ACL Complaint No. 262.5-13 for the time and place specified above. As of the date of this notice, Mr. Gladstein has not filed a water right application for the reservoir on his property.

The staff costs associated with issuance of the ACL complaint, including a field inspection and review by the Office of Chief Counsel are conservatively estimated to be well over \$500.

### **PROJECT DESCRIPTION**

Mr. Gladstein is owner of Sonoma County Assessor's Parcel Number (APN) 120-200-029 located within the NW1/4 of the NW1/4 of Section 4, T8N, R7W, MDB&M. Located on this property is a reservoir with an approximate capacity of 19 acre-feet created by an earthen dam. The Division of Water Rights has no record of a water right covering this reservoir.

### **KEY ISSUES**

1. Is the reservoir owned by Mr. Gladstein subject to the permitting authority of the SWRCB?
2. Should the SWRCB adopt an order affirming administrative civil liability and, if so, should it be in the amount of \$500 or some other amount?

### **HEARING PROCEDURES AND PARTICIPATION**

The hearing will provide an opportunity for staff from the Division of Water Rights and Mr. Gladstein to present evidence relevant to the issue of imposing administrative civil liability on Mr. Gladstein for the reservoir on his property. Each party to the hearing may present testimony and exhibits and may cross-examine witnesses presented by the other party. Parties may present rebuttal evidence. Any rebuttal evidence is also subject to cross-examination.

If a party intends to present written testimony or other exhibits at the hearing, 6 copies of the written testimony or exhibits shall be provided to Mr. David R. Beringer by 4 P.M. on May 5, 2000, at the following address:

Mr. David R. Beringer  
Division of Water Rights  
State Water Resources Control  
Board  
901 P Street  
Sacramento, CA 95814

Parties will be allowed up to 20 minutes to present testimony and exhibits. The time for presentation of a party's case may be

extended upon a showing of good cause. If a party wants to offer written testimony, the witness who prepared the testimony should appear to identify the written testimony and present a brief oral summary.

The proceeding will be conducted as provided herein and in accordance with the procedures for adjudicative proceedings set forth in California Code of Regulations, title 23, sections 648-648.8, 649.6, and 760 et seq. Please note that section 648.5, subdivision (a), provides that:

“Adjudicative proceedings shall be conducted in a manner as the Board deems most suitable to the particular case with a view toward securing relevant information expeditiously without unnecessary delay and expense to the parties and to the Board.”

A copy of the statutes and regulations governing SWRCB adjudicative proceedings may be accessed at the SWRCB web-site at [www.swrcb.ca.gov](http://www.swrcb.ca.gov) or by calling the staff person listed at the phone number below.

During the pendency of the proceeding, commencing no later than the issuance of the Notice of Hearing, there will be no *ex parte* communications between SWRCB members and any of the parties or interested persons regarding substantive issues within the scope of the proceeding.

Communications regarding non-controversial procedural matters will be permitted, but ordinarily should be directed to SWRCB staff and not to SWRCB members. The SWRCB will consider adoption of an order regarding this matter at a future time following notice to the parties.

### **PARKING AND ACCESSIBILITY**

The enclosed maps show the location of the Paul R. Bonderson Building and public parking sites in Sacramento. The Paul R. Bonderson Building first floor hearing room is accessible to persons with disabilities.

### **IF YOU HAVE ANY QUESTIONS**

Questions concerning the hearing may be addressed to Mr. John O'Hagan of the Division of Water Rights at (916) 657-1940.

*SIGNED BY*

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Maureen Marché  
Administrative Assistant to the Board.

Dated: April 10, 2000

### **STAFF EXHIBITS TO BE OFFERED INTO EVIDENCE**

The following items will be offered as staff exhibits at the hearing on:  
May 9, 2000, to consider:

#### **Administrative Civil Liability Against Mr. John B. Gladstein.**

Copies of the following correspondence and documents will be offered as staff exhibits and were enclosed with the Hearing Notice:

1. Division letter to Mr. Gladstein dated July 27, 1998.
2. Division Report of Investigation for field investigation conducted on December 2, 1998.
3. Division certified letter dated February 24, 1999.
4. Postal receipt card showing delivery on March 8, 1999, for Certified Mail No. 485715.
5. Staff contact report dated April 2, 1999, regarding discussion with Mr. Gladstein.
6. Administrative Civil Liability Complaint No. 262.5-13, Invoice, and certified cover letter dated May 6, 1999.
7. Postal receipt card showing delivery on May 7, 1999, for Certified Mail No. 485841.
8. Mr. Gladstein's letter dated May 25, 1999.
9. Division's certified letter to Mr. Gladstein dated June 23, 1999.
10. Postal receipt card showing delivery on June 25, 1999, for Certified Mail No. 485941.
11. Time-Line of Events Related to Gladstein's ACL

The following documents and files will be offered as exhibits by reference:

12. Maacama Creek Watershed Investigation File 262.0 (49-40).
13. Administrative Civil Liability File 262.5.
14. Division of Water Rights Draft Russian River Report.
15. Topographic Maps published by the United States Geological Survey covering the area under consideration.