

HORSESHOE LAKE MANAGEMENT COMMITTEE AGENDA

5:00 P.M. - THURSDAY, NOVEMBER 14, 2013

Woodland Council Chambers

100 Davidson Avenue – Woodland, WA 98674

- I. Call to Order
- II. Welcome New Committee Member - Bill Dunlap
- III. **Minutes for September 12, 2013** (October 10, 2013 Cancelled)
- IV. Continued Business
 - A. Pump & Lake Update
 - **Pump Question and Response from Mike London, WSDOT**
 - **Pump Maintenance Log**
 - **Lake/River Tracking Report**
 - **Standard Operating Procedures (SOPs)**
 - B. Water Quality Testing
 - **September 11, 2013 and October 18, 2013 Results**
 - **Phosphorus and E. Coli Graphs**
 - C. Budget
 - **2013 and Projected 2014**
 - D. Goals & Priorities
- V. New Business
 - A. Open Public Meetings Act (OPMA)
- VI. Other
 - A. News Publications
 - **Toxic Algae: Coming Soon to a Lake Near You? - National Wildlife Federation**
 - **County Clean Water Fund Axes Watershed Stewards - The Columbian**
 - **Waterkeeper Movement Thrives From Maine to Nepal - The Columbian**
- VII. Adjourn - Next Meeting December 12, 2013 at 5:00 P.M.

**CITY OF WOODLAND
HORSESHOE LAKE COMMITTEE MINUTES
SEPTEMBER 12, 2013**

The regular meeting of the Horseshoe Lake Management Committee was held on the above date, at the Woodland City Hall, 100 Davidson Avenue Street, Woodland, WA 98674.

Chairman Tom Golik called the meeting to order at approximately 5:00 p.m. Roll call found the following:

COMMITTEE MEMBERS:

Tom Golik, Chairman
Walt Church
Mike Curry
Bill Dunlap (Absent)
Terry Jones (Absent)
Francis Patnode
Pat Rychel
Neil Van Horn

MAYOR/COUNCIL/OTHER:

Scott Perry, Councilmember
Stacie Kelsey, Dept. of Fish & Wildlife

STAFF:

Jody Bartkowski, Secretary

MINUTES

The May 9, 2013 minutes and July 11, 2013 were approved as presented. The June and August meetings were cancelled.

CONTINUED BUSINESS

A. Pump and Lake Update. Discussion ensued regarding the pump maintenance log, weed growth, limiting use of propeller boats in the weedy areas, correspondence with the Washington State Department of Transportation (WSDOT) to post no trespassing signs at the pump structure, policing of the pump area, cleaning/repair/design of pump screens, the need for WSDOT to do a thorough cleaning of limbs and weeds, increasing screen cleaning to bi-monthly during the summer, and a Memorandum of Understanding with WSDOT for shared duties.

Stacie Kelsey, Washington State Department of Fish & Wildlife (WDFW) discussed the setting of nets for carp counting, a report received from a citizen who captured a grass carp, scheduling a site visit to the pump structure with Public Works Leadman Dennis Ripp, and reported that the outlet structure has been placed on the WDFW's annual list of projects to be inspected.

Further discussion was held regarding the plant survey visit to Horseshoe Lake by the Department of Ecology (DOE), the lack of need for blue/green algae testing, DOE paying for voluntarily blue/green algae testing, the Committee's desire to test if it can be done before the weather changes, and the affect of the DOE visit on grant applications. A summary of DOE findings will be presented to the Committee as soon as it is available.

B. Water Quality & Sampling. Attendees conducted a review of the phosphorus and E. coli graphs. Discussion ensued regarding appropriate contaminate levels, testing using private boats, and the ability to use WDFW's hydro lab and do additional testing if Ms. Kelsey can participate.

C. Budget. Discussion was held regarding lab testing costs, unexpended funds, limited budget funding in 2014, contacting Commissioner Misner for additional help, testing kits purchased and not used by WSDOT, WSDOT's agreement to continue their testing for the months that were not done in Ms. Kelsey's absence, and the need for approximately \$5,000 in 2014. Ms. Kelsey discussed the need to maintain the Lake due to the finding of Coho salmon and WDFW writing a letter to Mayor showing the need.

D. Goals and Priorities. The following items were discussed:

Milfoil Eradication. Discussion was held regarding the "Crazy for Carp, Trash Fish" newspaper article. Ms. Kelsey reported that the Silver Lake carp removal event did not happen. The Committee reiterated that they do want the Silver Lake carp and will plan to attend their September meeting.

Council Member Scott Perry questioned Ms. Kelsey regarding chemical use by homeowners. Discussion ensued regarding spot testing, water flow, and payment by homeowners. Ms. Kelsey will gather additional information and report back to the Committee.

Grant Opportunities. Ms. Kelsey reported that she is currently reviewing a set of grant opportunities and continuing to review oxbow lakes and their management.

NEW BUSINESS

A. Committee Vacancy. Staff reported that Bill Dunlap will fill the position vacated by Jeff Sullivan. Mr. Dunlap plans to attend the October meeting.

OTHER

- **Committee Responsibility and Quorum for Action.** Discussion ensued regarding the Committee's responsibility to make recommendations to Council, making recommendations with less than a quorum, relating information to Council, new Council format for departmental reports, the Committee's desire to hold meetings regardless of a quorum, and the Washington State Open Meetings Acts (OPMA). Staff will provide information regarding the OPMA at the next regular meeting.
- **Shoreline Management Plan Update.** Staff reported that a representative is still scheduled to meet with the Committee; information regarding retaining walls can be discussed at that time.
- **Standard Operating Procedures for the Horseshoe Lake valve.** Committee Member Walt Church asked that the SOP's be reviewed again to make sure everyone is aware of the process for opening the Lake valve before it is done this winter.

ADJOURNMENT

The meeting was adjourned at approximately 7:00 p.m. The next regular meeting will be held Thursday, October 10, 2013, at 5:00 p.m. at the Woodland City Hall, 100 Davidson Avenue, Woodland WA 98674.

Tom Golik - Chairman

Date

Jody Bartkowski - Secretary

Date

Jody Bartkowski

From: London, Mike [LondonM@wsdot.wa.gov] ✱
Sent: Friday, October 04, 2013 9:57 AM
To: Jody Bartkowski
Subject: Re: Horseshoe Lake Pump

Hi Jody,

At this time we aren't pursuing a permit to clean the sump mechanically. Before, we would use our crane, with a Clam bucket to clean out the sump. Because of new crane regulations, to operate the crane, the out riggers have to be completely out. There isn't enough room there for us to be able to do that and still reach the sump. Last time we cleaned it out, I went underwater with scuba gear, rigged debris, and we pulled it out with a boat. I anticipate this will be the method we use for as long as it works.

We haven't fixed the screen yet. It usually takes someone in the water, a pry bar and a 4 pound hammer to fix it. I am the only person on my crew dive certified and started dealing with an injury shortly after our last correspondence. I sent a couple of guys out to look at it, and it will require me to get in the water. I hope to get to it before the end of October. If the problem is was I think, I will email some precautions the screen cleaners can take to avoid this problem in the future.

If you have any other questions let me know.

RESPONSE

Thanks
Mike

Sent from my Verizon Wireless 4G LTE DROID

Jody Bartkowski <bartkowskij@ci.woodland.wa.us> wrote:

Bart / Mike:

I received the following message from a Horseshoe Lake Management Committee member. Could I please get comments from you to share with the Committee at our next meeting on Thursday, October 10, 2013.

"Jody: I have 2 items that should be answered to the group. In e-mails on Apr 4, 2010 WSDOT said they removed debris in front of screens and said that they were working on permit for 5-years to mechanically clean the sumps under the pumps yearly as they said they would do when pump was first put in. Not known if this ever got done??"

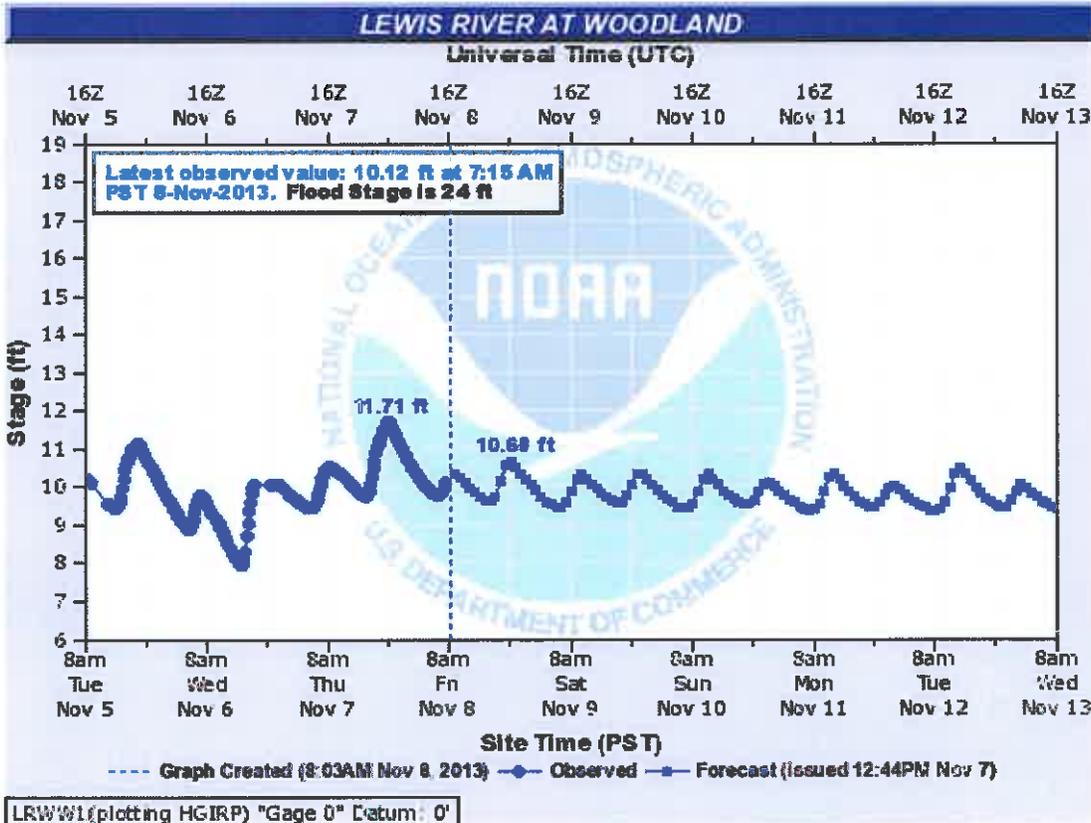
Other is along same line in e-mail between Bart and Mike London on Sept 14, 2011 where WSDOT is reviewing permit to remove woody debris at pump sumps without excavating or changing river bottom. If you look at those holes when river is low and the day is sunny they have not changed and are clear at edge of main flow of river and not changed since dug many yrs ago. Problem now is they are just filling with debris and weeds, it looks like they have not been cleaned out in years. Did WSDOT recently get south end screen lifted so your dept could clean off???"

Thanks,
~JODY

Jody Bartkowski

Date	River Level 8:00 AM	Days High Temp	Lake			Valve Status	Comments
			Level	Temp	Visibility		
1-Sep-13		85.1°				Closed	
2-Sep-13		80.3°				Closed	
3-Sep-13		80.3°				Closed	
4-Sep-13		73.5°				Closed	
5-Sep-13		70.6°				Closed	
6-Sep-13	8.67	66.9°				Closed	
7-Sep-13	7.60	80.1°	Down 22"	73°	7'	Closed	Rain appears to to be bringing level up.
8-Sep-13	7.64	83.4°				Closed	
9-Sep-13	7.54	81.4°				Closed	
10-Sep-13	7.68	85.9°				Closed	
11-Sep-13	8.34	95.4°				Closed	
12-Sep-13	7.83	80.7°				Closed	
13-Sep-13	7.32	71.5°				Closed	
14-Sep-13	9.43	77.6°				Closed	
15-Sep-13	9.23	65.0°				Closed	
16-Sep-13	8.63	67.4°				Closed	
17-Sep-13	8.01	69.6°				Closed	
18-Sep-13	7.39	74.0°				Closed	
19-Sep-13	7.34	78.6°				Closed	
20-Sep-13	7.42	71.5°	Down 26"	71°	8'	Closed	
21-Sep-13	7.70	65.5°				Closed	
22-Sep-13	7.86	59.3°				Closed	
23-Sep-13	7.85	59.9°				Closed	
24-Sep-13	7.71	59.0°				Closed	
25-Sep-13	8.25	62.1°				Closed	
26-Sep-13	8.21	68.6°				Closed	
27-Sep-13	10.03	54.8°	Down 26"	65°	7'6"	Closed	
28-Sep-13	11.83	62.0°				Closed	
29-Sep-13	12.47	56.0°				Closed	
30-Sep-13	13.09	59.6°	Down 23"			Closed	Level coming back up. VERY rainy!
1-Oct-13	13.41	55.3°				Closed	
2-Oct-13	11.48	52.8°				Closed	
3-Oct-13	11.17	55.7°				Closed	
4-Oct-13	11.17	67.3°	Down 21"	62°	8'6"	Closed	Clarity better, level rising, water is chilly.
5-Oct-13	10.70	73.2°				Closed	
6-Oct-13	10.65	72.8°				Closed	
7-Oct-13	10.57	60.9°				Closed	
8-Oct-13	10.52	59.5°				Closed	
9-Oct-13	10.09	62.0°				Closed	
10-Oct-13	9.92	57.6°				Closed	
11-Oct-13	9.75	59.0°				Closed	
12-Oct-13	10.21	59.3°				Closed	
13-Oct-13	9.28	59.8°				Closed	
14-Oct-13	9.01	64.5°	Down 21"	59°	6'6"	Closed	Clarity is not great; sun is back out.
15-Oct-13	8.62	68.1°				Closed	
16-Oct-13	8.18	64.3°				Closed	
17-Oct-13	8.40	61.0°				Closed	
18-Oct-13	8.74	67.1°				Closed	
19-Oct-13	8.71	67.1°	Down 23"	59°	6'6"	Closed	

**National Weather Service
Advanced Hydrologic Prediction Service
water.weather.gov/ahps/**



LRWW1(plotting HGIRP) "Gage 0" Datum: 0'

Forecasts for the Lewis River at Woodland are issued routinely year-round.

HORSESHOE LAKE STRUCTURE AND RELATED VALVE STANDARD OPERATING PROCEDURES

The following is an excerpt from the March 14, 2013 Horseshoe Lake Management Committee minutes:

Committee Member Walt Church made the following motion regarding the Horseshoe Lake outlet structure and valve:

The following will be the Standard Operating Procedure (SOP) for the Horseshoe Lake structure and related valve:

It is imperative that the Lake be maintained at the highest level, consistent with the elevation at the outlet structure as originally installed. The valve on the Airport side should be closed at all times except when the Lake is overflowing the outlet structure as originally installed or when CDID #1 is required to regulate the flow.

- 1. Maximum Lake elevation is necessary to help control the vegetation growth.*
- 2. Lesser Lake elevation is not required to retard bank erosion since the passage of "5-MPH no wake" ordinance.*
- 3. Solution to pollution is dilution.*
- 4. Opening the valve on the airport side before water overflows the structure causes the Lake to lose water through the defective structure.*

Any changes in this SOP must be submitted in writing to the HSLMC.

Committee Member Mike Curry seconded the motion.

Discussion ensued regarding keeping the Lake water high enough to overflow the outlet structure, opening/closing of the airport valve, seepage through the Lake bottom, work done to repair leaks in the structure around 2009, the location of various leaks in the structure, dye testing to find leaks, circulation, and action needed to have the valve closed.

Motion approved unanimously.

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA, 98661



Phone: 360-750-0055
Fax: 360-750-0057
Email: reports@addylab.com

October 1, 2013

Jody Bartkowski
City of Woodland
bartkowskij@ci.woodland.wa.us

Dear Ms. Bartkowski:

Enclosed are the laboratory reports for the Horseshoe Lake water samples collected 09/11/13. All results are intended to be considered in their entirety and AddyLab, LLC is not responsible for use of less than the complete report. Results apply only to the samples submitted to the laboratory for analysis.

If you have any questions, please give me a call. The reference number for this work is 13AL1585. Thank you for your business.

Sincerely,

A handwritten signature in cursive script that reads "Thomas A. Newman".

Thomas Newman
Quality Manager

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
Fax: 360 750-0057
Email: reports@addylab.com

Analytical Report

Client: City of Woodland Public Works
Project: Horseshoe Lake
Sample ID: 1- Lake Inlet
Report Date: 10/1/13

Reference #: 13AL1585
Date Collected: 09/11/13
Date Received: 09/11/13
Collected By: Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14407027	E. coli	1.0	^	2.0	SM 9223 B	09/11/13 1058	33-150	JD
L657007-01	Total Phosphorus*	0.012	mg/L	0.003	EPA 365.1	9/20/13	WG682523	-

Definitions:

- Q RPD value not applicable for sample concentrations less than 5 times the reporting limit.
- mg/L Milligram per Liter
- MRL Method Reporting Limit
- ND Analyte Not Detected at or above the Method Detection Level (MDL).
- J An estimate that is less than the MRL but greater than or equal to the MDL
- N Matrix interference, spike sample recovery not within control limits
- ^ Most Probable Number per 100 mL
- * Total Phosphorus analyzed at ESC.

Test results for pH, color, anions except o-phosphorus, E. coli, coliform bacteria, and turbidity conducted by AddyLab meet all the requirements of NELAC, unless otherwise stated in writing, and relate only to these samples. If you have any questions regarding these results contact Thomas Newman, Quality Manager.

Reviewed By: DM Date: 10/1/13

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
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Analytical Report

Client: City of Woodland Public Works
Project: Horseshoe Lake
Sample ID: 3- F-Dock
Report Date: 10/1/13

Reference #: 13AL1585
Date Collected: 09/11/13
Date Received: 09/11/13
Collected By: Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14407028	E. coli	4.1	^	2.0	SM 9223 B	09/11/13 1058	33-150	JD
L657007-02	Total Phosphorus*	0.014	mg/L	0.003	EPA 365.1	9/20/13	WG682523	-

Definitions:

- mg/L milligram per Liter
- MRL Method Reporting Limit
- ND Analyte Not Detected at or above the Method Detection Level (MDL).
- J An estimate that is less than the MRL but greater than or equal to the MDL
- N Matrix interference, spike sample recovery not within control limits
- ^ Most Probable Number per 100 mL
- * Total Phosphorus analyzed at ESC.

Test results for pH, color, anions except o-phosphorus, E. coli, coliform bacteria, and turbidity conducted by AddyLab meet all the requirements of NELAC, unless otherwise stated in writing, and relate only to these samples. If you have any questions regarding these results contact Thomas Newman, Quality Manager.

Reviewed By: TDN Date: 10/1/13

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
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Analytical Report

Client: City of Woodland Public Works
Project: Horseshoe Lake
Sample ID: 7- Rasp. Drain
Report Date: 10/1/13

Reference #: 13AL1585
Date Collected: 09/11/13
Date Received: 09/11/13
Collected By: Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14407030	E. coli	3.0	^	2.0	SM 9223 B	09/11/13 1058	33-150	JD
L657007-04	Total Phosphorus*	0.013	mg/L	0.003	EPA 365.1	9/20/13	WG682523	

Definitions:

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- J An estimate that is less than the MRL but greater than or equal to the MDL
- N Matrix interference, spike sample recovery not within control limits
- ^ Most Probable Number per 100 mL
- * Total Phosphorus analyzed at ESC.

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Reviewed By: TDN Date: 10/1/13

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA. 98661



Phone: 360-750-0055
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Email: reports@addylab.com

October 29, 2013

Stacie Kelsey
Inland Fish Program
Region 5 WDFW
Stacie.Kelsey@dfw.wa.gov

Dear Ms. Kelsey:

Enclosed is the laboratory report for the Horseshoe Lake water samples collected 10/18/13 and analyzed for total phosphorus. All results are intended to be considered in their entirety and AddyLab, LLC is not responsible for use of less than the complete report. Results apply only to the samples submitted to the laboratory for analysis.

If you have any questions, please give me a call. The reference number for this work is 13AL1842. Thank you for your business.

Sincerely,

A handwritten signature in cursive script that reads "Thomas A. Newman".

Thomas Newman
Quality Manager

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
Fax: 360 750-0057
Email: reports@addylab.com

Analytical Report

Client: City of Woodland Public Works **Reference #:** 13AL1842
Project: Horseshoe Lake **Date Collected:** 10/18/13
Sample ID: 1- Inlet **Date Received:** 10/18/13
Report Date: 10/28/13 **Collected By:** Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14408016	E. coli	5.2	^	2.0	SM 9223 B	10/18/13 1300	34-58	CLA
L664141-01	Total Phosphorus*	0.032	mg/L	0.003	EPA 365.1	10/28/13	WG688845	-

Definitions:

- Q RPD value not applicable for sample concentrations less than 5 times the reporting limit.
- mg/L Milligram per Liter
- MRL Method Reporting Limit
- ND Analyte Not Detected at or above the Method Detection Level (MDL).
- J An estimate that is less than the MRL but greater than or equal to the MDL
- N Matrix interference, spike sample recovery not within control limits
- ^ Most Probable Number per 100 mL
- * Total Phosphorus analyzed at ESC.

Test results for pH, color, anions except o-phosphorus, E. coli, coliform bacteria, and turbidity conducted by AddyLab meet all the requirements of NELAC, unless otherwise stated in writing, and relate only to these samples. If you have any questions regarding these results contact Thomas Newman, Quality Manager.

Reviewed By: *TNW* Date: 10/29/13

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
Fax: 360 750-0057
Email: reports@addylab.com

Analytical Report

Client: City of Woodland Public Works **Reference #:** 13AL1842
Project: Horseshoe Lake **Date Collected:** 10/18/13
Sample ID: 3- Fleischman **Date Received:** 10/18/13
Report Date: 10/28/13 **Collected By:** Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14408017	E. coli	11.0	^	2.0	SM 9223 B	10/18/13 1300	34-58	CLA
L664141-02	Total Phosphorus*	0.03	mg/L	0.003	EPA 365.1	10/28/13	WG688845	-

Definitions: mg/L milligram per Liter
MRL Method Reporting Limit
ND Analyte Not Detected at or above the Method Detection Level (MDL).
J An estimate that is less than the MRL but greater than or equal to the MDL
N Matrix interference, spike sample recovery not within control limits
^ Most Probable Number per 100 mL
* Total Phosphorus analyzed at ESC.

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Reviewed By: TAN Date: 10/29/13

AddyLab, LLC
2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
Fax: 360 750-0057
Email: reports@addylab.com

Analytical Report

Client: City of Woodland Public Works **Reference #:** 13AL1842
Project: Horseshoe Lake **Date Collected:** 10/18/13
Sample ID: 4- Kitchen **Date Received:** 10/18/13
Report Date: 10/28/13 **Collected By:** Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14408018	E. coli	14.6	^	2.0	SM 9223 B	10/18/13 1300	34-58	CLA
L664141-03	Total Phosphorus*	0.017	mg/L	0.003	EPA 365.1	10/28/13	WG688845	-

Definitions: mg/L Milligram per Liter
MRL Method Reporting Limit
ND Analyte Not Detected at or above the Method Detection Level (MDL).
J An estimate that is less than the MRL but greater than or equal to the MDL
N Matrix interference, spike sample recovery not within control limits
^ Most Probable Number per 100 mL
* Total Phosphorus analyzed at ESC.

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Reviewed By: TBN Date: 10/29/13

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2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
Fax: 360 750-0057
Email: reports@addylab.com

Analytical Report

Client:	City of Woodland Public Works	Reference #:	13AL1842
Project:	Horseshoe Lake	Date Collected:	10/18/13
Sample ID:	7- Rasp. Drain	Date Received:	10/18/13
Report Date:	10/1/13	Collected By:	Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14408019	E. coli	6.3	^	2.0	SM 9223 B	10/18/13 1300	34-58	CLA
L664141-04	Total Phosphorus*	0.028	mg/L	0.003	EPA 365.1	10/28/13	WG688845	-

Definitions:

- mg/L Milligram per Liter
- MRL Method Reporting Limit
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Reviewed By: TMW Date: 10/29/13

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2517 E. Evergreen Blvd.
Vancouver, WA 98661



Phone: 360 750-0055
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Analytical Report

Client: City of Woodland Public Works
Project: Horseshoe Lake
Sample ID: 9- Walts
Report Date: 10/28/13

Reference #: 13AL1842
Date Collected: 10/18/13
Date Received: 10/18/13
Collected By: Jodie Bartkowski

Lab #	Analyte	Result	Units	MRL	Method	Date Analyzed	Batch	Analyst
14408020	E. coli	2.0	^	2.0	SM 9223 B	10/18/13 1300	34-58	CLA
L664141-05	Total Phosphorus*	0.013	mg/L	0.003	EPA 365.1	10/28/13	WG688845	-

Definitions:

- mg/L Milligram per Liter
- MRL Method Reporting Limit
- ND Analyte Not Detected at or above the Method Detection Level (MDL).
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Reviewed By: TXN Date: 10/29/13

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13AL1842

13AL1842

CHAIN OF CUSTODY REPORT

CLIENT / SYSTEM NAME:		INVOICE TO:	
REPORT TO: ADDRESS OR EMAIL bartk.wski@ci.woodland.wa.us		City of Woodland PO Box 9 Woodland WA 98674	
PHONE: (360) 225-7999	FAX: 224-7407	PO NUMBER:	
PROJECT NAME: Horseshoe Lake		REQUIREMENT ANALYSES	
PROJECT NUMBER: -			
SAMPLED BY: Jody Bartkowsk			
CLIENT SAMPLE IDENTIFICATION	SAMPLING DATE/TIME		
1. Inlet	10/13/13 9:50	X	
23 Fleishman	9:58	X	
34 Kitchen	10:02	X	
37 Rap. Drain	10:08	X	
49 Walt's	10:15	X	
6.			
7.			
8.			
9.			
10.			

Compliance: WA OR System / PWS ID #: _____ DOH Source / Source ID #: _____ Group (WA Only): A B

Sample Composition: Single Source _____ Blended _____ Composite _____ Distribution Sample _____

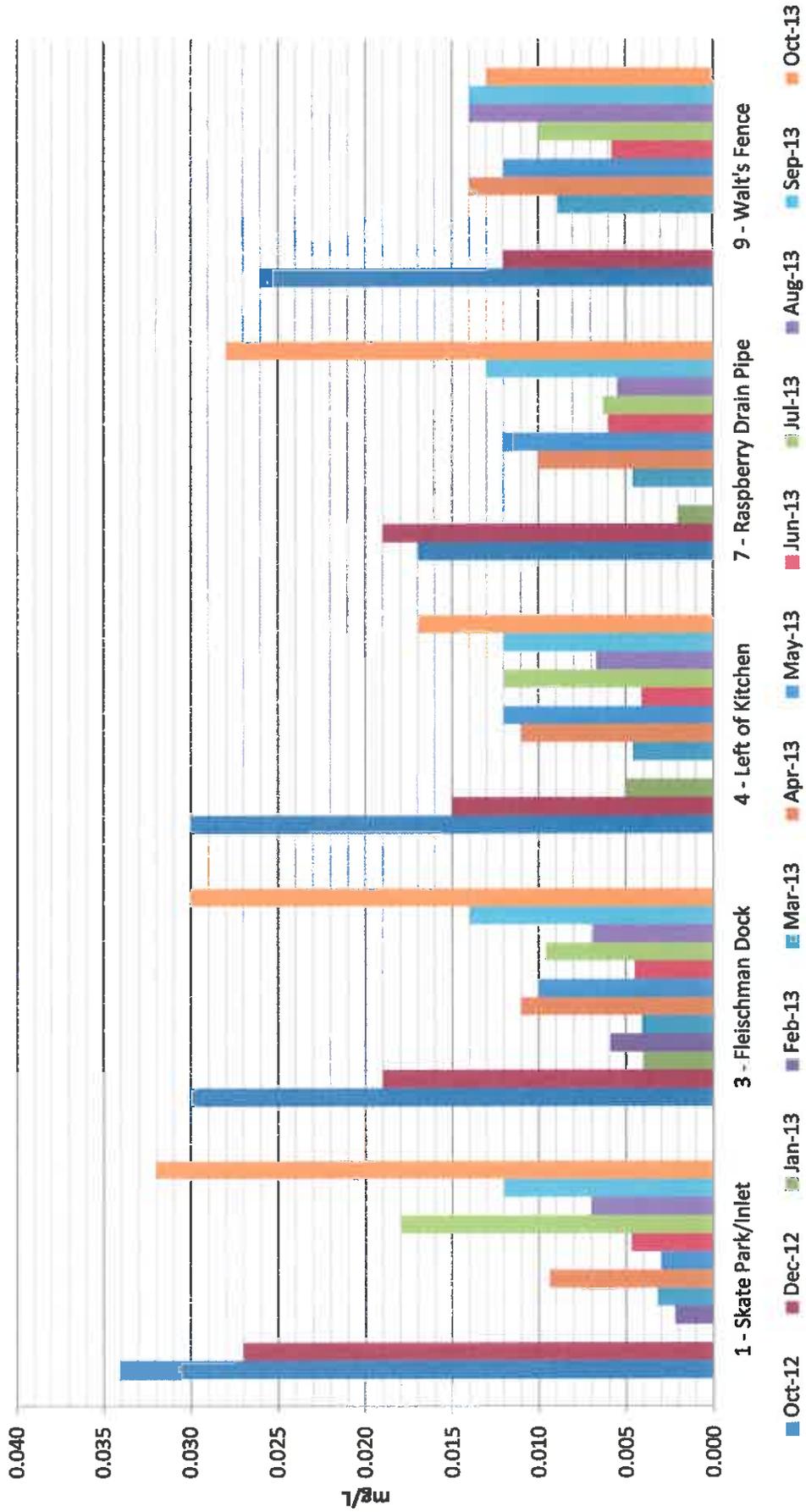
Sample Taken: Before Treatment _____ After Treatment _____ No Treatment _____

RELINQUISHED BY	COMPANY	DATE	TIME	RECEIVED BY	COMPANY	DATE	TIME	TEMP.
Jody Bartkowsk	Woodland City	10/13/13	11:07	Della Korman		10/13/13	11:07	110.0

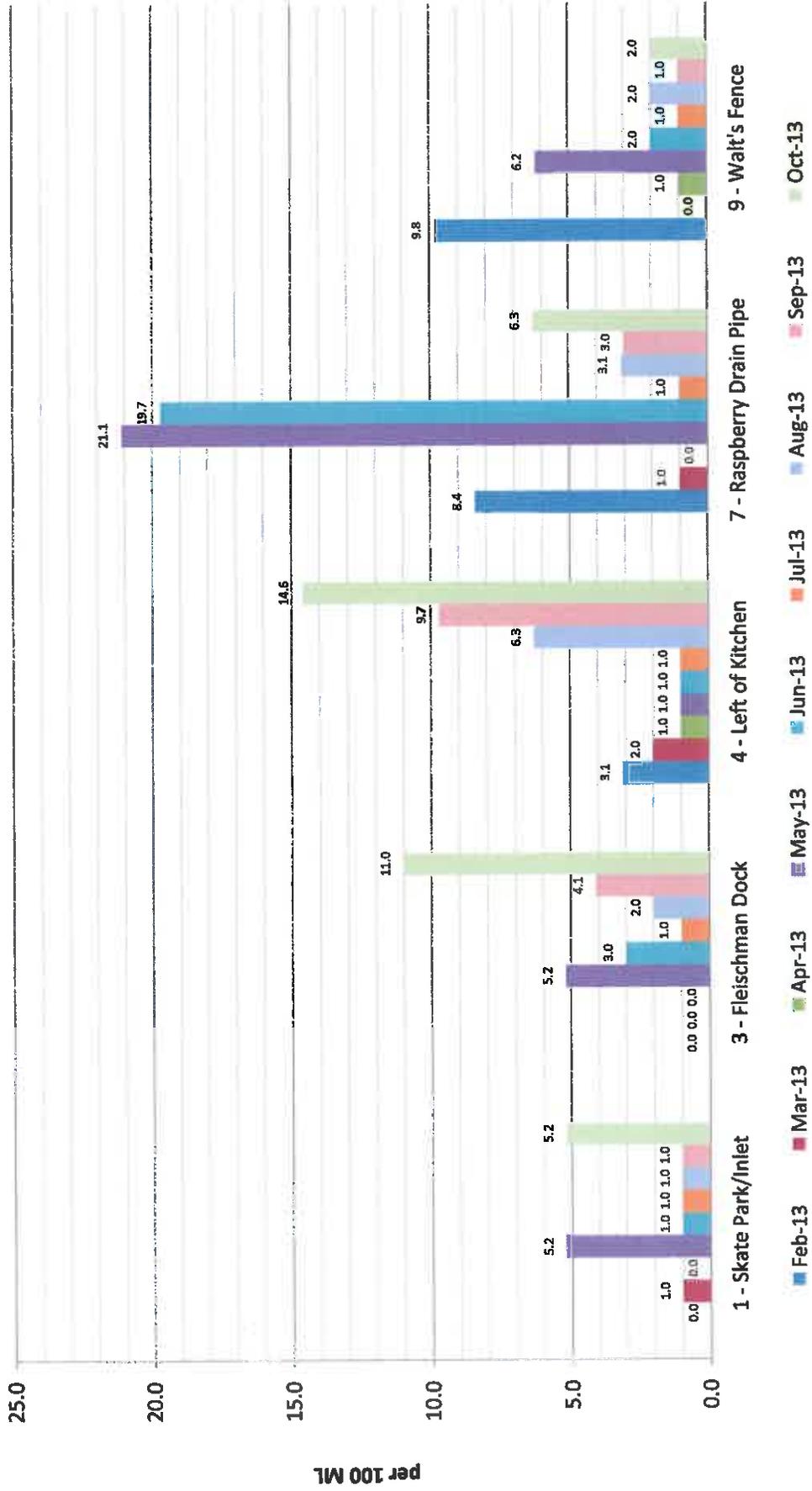
Page 7 of 7

COC REV 2/13

Horseshoe Lake Addy Lab Test Results Phosphorus



Horseshoe Lake Addy Lab Test Results E. Coli



**Horseshoe Lake Testing
Budget**

	Revenue		Expense	Balance
01/01/13 City of Woodland Budget Contribution	\$ 1,200.00	\$	-	\$ 1,200.00
01/19/13 US Bank/Hach (WDFW Supplies)	-		556.68	643.32
01/23/13 Addy Lab (January)	-		135.00	508.32
02/07/13 Addy Lab (February)	-		335.00	173.32
02/22/13 Invoice to Cowlitz County (No. 2296)	1,800.00		-	1,973.32
02/22/13 Invoice to Clark County (No. 2297)	1,800.00		-	3,773.32
03/20/13 Addy Lab (March)	-		335.00	3,438.32
05/06/13 Addy Lab (April)	-		335.00	3,103.32
05/29/13 Addy Lab (May)	-		335.00	2,768.32
06/15/13 Addy Lab (June)	-		335.00	2,433.32
07/26/13 Addy Lab (July)	-		335.00	2,098.32
08/23/13 Addy Lab (August)	-		335.00	1,763.32
10/07/13 Addy Lab (September)	-		335.00	1,428.32
11/30/13 Addy Lab (October)	-		335.00	1,093.32
ANTICIPATED EXPENSES				
Addy Lab - November Testing	-		335.00	758.32
Addy Lab - December Testing	-		335.00	423.32
Addy Lab - January Testing	-		335.00	88.32
TOTALS	\$ 4,800.00	\$	4,711.68	

Jody Bartkowski

From: Mari Ripp
Sent: Tuesday, November 05, 2013 12:42 PM
To: Jody Bartkowski
Cc: Mari Ripp
Subject: RE: Action by HSLMC

The short answer is yes they have to have a quorum (at least 5 of the 8 members must be present) to hold their meeting. They are under OPM Act per WMC2.80.030

The state Open Public Meetings Act requires that all meetings of governing bodies of public agencies, including cities, counties, and special purpose districts, be open and accessible to the public. A meeting generally includes any situation in which a majority of a city council, board of county commissioners, or other governing body (including certain kinds of committees) meets and discusses the business of that body. In order to be valid, ordinances, resolutions, rules, regulations, orders, and directives must be adopted at public meetings. The Act contains specific provisions regarding: regular and special meetings; executive sessions; types of notice that must be given for meetings; conduct of meetings; and penalties and remedies for violation of the Act.

For an in-depth discussion of the Act, see the MRSC publication entitled The Open Public Meetings Act - How it Applies to Washington Cities, Counties, and Special Purpose Districts (12), updated in May 2012. MRSC also has a publication dealing with basic legal guidelines for municipal officials called Knowing the Territory - Basic Legal Guidelines for Washington City, County, and Special Purpose District Officials (13) that discusses the purpose of the Open Public Meetings Act and its application to Washington cities, counties, and special purpose districts.

WMC 2.80.030 - Guidelines.

The committee shall function under the guidelines of the Washington State Open Meetings Act (RCW 42.30). (Res. 309 § 3, 1989)

2.80.020 - Composition.

The committee shall be composed of the following:

A. Eight members of the community appointed by the mayor. For purposes of this resolution, community shall be defined as the city of Woodland and areas adjacent thereto.

RCW 42.30.020

Definitions.

"Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

"Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and

final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

"Meeting" means meetings at which action is taken.

RCW 42.30.060

Ordinances, rules, resolutions, regulations, etc., adopted at public meetings — Notice — Secret voting prohibited.

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

REPORT NUMBER 60 Revised

May 2012

Municipal Research and Services Center

The Open Public Meetings Act

**How it Applies to Washington Cities, Counties,
and Special Purpose Districts**

The Open Public Meetings Act

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MRSC's mission is **WORKING TOGETHER** for excellence in local government through professional consultation, research and information services.

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Report Number 60 *Revised May 2012*



Contents

1	Introduction
3	Who Is Subject to the Act?
6	What Is a “Meeting”?
9	What Procedural Requirements Apply to Meetings?
15	When May a Governing Body Hold an Executive Session?
25	What Meetings Are Exempt from the Act?
27	What Are the Penalties for Violating the Act?
29	Selected Cases and Attorney General Opinions

Foreword

This is the second revision of our original September 1997 publication on the Open Public Meetings Act. Issues involving public meetings of governing bodies of cities, towns, counties, and special purpose districts continue to figure prominently in inquiries to MRSC legal consultants. This publication is intended for use by city, town, county, and special purpose district officials and is intended to provide general guidance in understanding the policies and principles underlying this important law.

Special acknowledgment is given to Bob Meinig, Legal Consultant, who prepared this publication. Thanks are also due to Pam James, Legal Consultant, for her editing, and to Holly Stewart, Desktop Publishing Specialist, for designing the publication.

Introduction

In 1971, the state legislature enacted the Open Public Meetings Act (the “Act”) to make the conduct of government more accessible and open to the public. The Act begins with a strongly worded statement of purpose:¹

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.²

Codified in chapter 42.30 RCW, the Act applies to all city and town councils,³ to all county councils and boards of county commissioners, and to the governing bodies of special purpose districts, as well as to many subordinate city, county, and special purpose district commissions, boards, and committees. It requires, basically, that all “meetings” of such bodies be open to the public and that all “action” taken by such bodies be done at meetings that are open to the public. The terms “meetings” and “action” are defined broadly in the Act and, consequently, the Act can have daily significance for cities, counties, and special purpose districts even when no formal meetings are being conducted.

¹RCW 42.30.010

²Throughout this publication, indented quotations in italics are statutory language.

³For convenience, the term “city council” will in this publication also refer to town councils and to city commissions under the commission form of government. There is currently only one city in the state, Shelton, that is governed by the commission form of government.

This publication comprehensively reviews the Act as it applies to Washington cities, towns, counties, and special purpose districts.⁴ It also provides answers to selected questions that have been asked of MRSC staff concerning application of the Act. However, we find that new questions constantly arise concerning the Act. So, if you have questions that are not addressed by this publication, do not hesitate to contact your legal counsel or MRSC legal staff.

⁴There is no single uniform definition of a special purpose district in state law. In general, a special purpose district is any unit of local government other than a city, town, or county that is authorized by law to perform a single function or a limited number of functions, such as water-sewer districts, irrigation districts, fire districts, school districts, port districts, hospital districts, park and recreation districts, transportation districts, diking and drainage districts, flood control districts, weed districts, mosquito control districts, metropolitan municipal corporations, etc.

Who Is Subject to the Act?

The basic mandate of the Open Public Meetings Act is as follows:

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.⁵

The Act applies to “meetings” of a “governing body” of a “public agency.” A “public agency” includes a city, county, and special purpose district.⁶ A “governing body” is defined in the Act as follows:

“Governing body” means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

The legislative bodies of cities and counties⁷ clearly are governing bodies under this definition, as are the boards or commissions that govern special purpose districts. However, they are not the only governing bodies to which the Act applies. The Act also applies to any “subagency” of a city, county, or special purpose district,⁸ because the definition of “public agency” includes:

Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies.⁹

Under this definition, the subagency must be created by some legislative act of the governing body, such as an ordinance or resolution. A group established by a mayor to advise him or her

⁵RCW 42.30.030.

⁶RCW 42.30.020(1)(b).

⁷The legislative bodies of cities are the city councils or city commissions, and the legislative bodies of counties are the boards of county commissioners or county councils.

⁸Most special purpose district governing bodies do not have the authority to create such subagencies.

⁹RCW 42.30.020(1)(c).

could not, for example, be a subagency, because a mayor does not act legislatively. However, a legislative act alone does not create a subagency. According to the attorney general's office, a board or a commission or other body is not a subagency governed by the Act

unless it possesses some aspect of policy or rulemaking authority. In other words, its "advice," while not binding upon the agency with which it relates . . . , must nevertheless be legally a necessary antecedent to that agency's action.¹⁰

If a board or commission (or whatever it may be termed) established by legislative action is merely advisory and its advice is not necessary for the city, county, or district to act, the Act generally does not apply to it.

Given the above definitions, the following are governing bodies within city and county government that *are subject* to the Act:

- City council or commission
- County council or board of commissioners
- Planning commission
- Civil service commission
- Board of adjustment

Other boards or commissions will need to be evaluated individually to determine whether the Act applies to them. For example, the definition of a subagency identifies library boards, but, in some cities (particularly those without their own libraries), library boards function as purely advisory bodies, without any policymaking or rulemaking authority. That type of a library board would not be subject to the Act. In cities where library boards function under statutory authority¹¹ and possess policymaking and rulemaking authority, those boards must follow the requirements of the Act.

Most special purpose districts have only one "governing body" under the meaning of that term in the Act.

In some circumstances, the Act applies to a committee of a governing body. As a practical matter, city or county legislative bodies are usually the only governing bodies with committees to which the Act may apply. A committee of a city or county legislative body will be subject to the Act in the following circumstances:

¹⁰AGO 1971 No. 33, at 9. The attorney general's office bases its conclusion on this issue on the language "or other policy or rulemaking body of a public agency" in the definition of "governing body" in RCW 42.30.020(2), quoted above. See also AGLO 1972 No. 48.

¹¹RCW 27.12.210.

- when it acts on behalf of the legislative body¹²
- when it conducts hearings, or
- when it takes testimony or public comment.

When a committee is not doing any of the above, it is not subject to the Act.¹³

Keep in mind that it is usually good public policy to open the meetings of city, county, and special district governing bodies to the public, even if it is uncertain or doubtful that the Act applies to them. Secrecy is rarely warranted, and the Act's procedural requirements are not onerous. This approach would be consistent with the Act's basic intent that the actions of governmental bodies "be taken openly and that their deliberations be conducted openly."¹⁴

Further Questions

May four councilmembers-elect of a seven-member council meet before taking their oaths of office without procedurally complying with the Act?

Yes. Councilmembers-elect are not yet members of the governing body and cannot take "action" within the meaning of the Act, and so they are not subject to the Act.¹⁵

Must a committee of the governing body be composed solely of members of the governing body for it to be subject to the Act under the circumstances identified in RCW 42.30.020(2)?

This statute defines a "governing body" to include a "*committee thereof* when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." (Emphasis added.) Does a "committee thereof" include only members of the governing body? This question has not been addressed by the courts. However, the attorney general's office has opined that a "committee thereof" may include individuals who are not members of the governing body when they are appointed by the governing body.¹⁶

¹²According to the attorney general's office, a committee acts on behalf of the governing body "when it exercises actual or de facto decisionmaking power." AGO 1986 No. 16, at 12. However, in an informal letter to the Central Kitsap School District Board, dated March 21, 2008, the open government ombudsman for the attorney general's office takes a more expansive view than this prior formal opinion regarding when a committee is subject to the Act.

¹³While the definition of "governing body" speaks of "when" a committee acts so as to come within that definition, the courts have not been clear about whether a committee is subject to the Act for all of its meetings when it is only at some that it is acting in that manner. See *Clark v. City of Lakewood*, 259 F.3d 996 (9th Cir. 2001).

¹⁴RCW 42.30.010.

¹⁵*Wood v. Battle Ground School Dist.*, 107 Wn. App. 550, 561 (2001).

¹⁶AGO 1986 No. 16.

What Is a “Meeting”?

There must be a “meeting” of a governing body for the Act to apply. Sometimes it is very clear that a “meeting” is being held that must be open to the public, but other times it isn't. To determine whether a governing body is having a “meeting” that must be open, it is necessary to look at the Act's definitions. The Act defines “meeting” as follows: “Meeting’ means meetings at which action is taken.”¹⁷ “Action,” as referred to in that definition of “meeting,” is defined as follows:

*“Action” means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. “Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.*¹⁸

Since a governing body can transact business when a quorum (majority) of its members are present,¹⁹ it is conducting a meeting subject to the requirements of the Open Public Meetings Act whenever a majority of its members meet together and deal in any way with city, county, or special purpose district business, as the case may be. This includes simply discussing some matter having to do with agency business. Because members of a governing body may discuss the business of that body by telephone or e-mail, it is not necessary that the members be in the physical presence of each other for there to be a meeting subject to the Act.²⁰ See the “Further Questions” at the end of this section. Also, it is not necessary that a governing body take “final action”²¹ for a meeting subject to the Act to occur.

¹⁷RCW 42.30.020(4).

¹⁸RCW 42.30.020(3).

¹⁹See, e.g., RCW 35A.12.120; 35.23.270; 35.27.280; 36.32.010.

²⁰*Wood v. Battle Ground School Dist.*, 107 Wn. App. 550, 562 (2001).

²¹RCW 42.30.020(3) defines “final action” as “a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.”

Note that it does not matter if the meeting is called a “workshop,” a “study session,” or a “retreat”; it is still a meeting subject to the Open Public Meetings Act if a quorum is addressing the business of the city, county, or special purpose district. If a governing body just meets socially or travels together, it is not having a meeting subject to the Act as long as the members do not discuss agency business or otherwise take “action.”²²

Further Questions

If a majority or more of the members of a governing body discuss city, county, or district business by telephone or e-mail, are they having a meeting subject to the Act?

Since the members of a governing body can discuss city, county, or district business together by telephone or by e-mail so as to be taking “action” within the above definition, the governing body can conduct a meeting subject to the Act even when the members are not in the physical presence of one another²³ This type of meeting could take many forms, such as a conference call among a majority or more of the governing body, a telephone “tree” involving a series of telephone calls, or an exchange of e-mails. Since the public could not, as a practical matter, attend this type of “meeting,” it would be held in violation of the Act.²⁴

Given the increasingly prevalent use of e-mail and the nature of that technology, members of city councils, boards of county commissioners, and special district governing bodies must be careful when communicating with each other by e-mail so as not to violate the Act. However, such bodies will not be considered to be holding a meeting if one member e-mails the other members merely for the purpose of providing relevant information to them. As long as the other members only “passively receive” the information and a discussion regarding that information is not then commenced by e-mail amongst a quorum, there is no Open Public Meetings Act issue.²⁵

May one or more members of a governing body “attend” a meeting by telephone?

Although no courts in this state have addressed this question, it probably would be permissible for a member of a governing body to “attend” a meeting by telephone, with the permission of the body, *if* that member's voice could be heard by all present, including

²²RCW 42.30.070; *In re Recall of Roberts*, 115 Wn.2d 551, 554 (1990).

²³*Wood v. Battle Ground School Dist.*, 107 Wn. App. 550, 562-63 (2001).

²⁴Though, at least one local government in this state has held an online meeting of its governing body, providing notice under the Act and giving the public the opportunity to “attend.”

²⁵*Id.* at 564-65.

the public, and if that member could hear all that is stated at the meeting. Some sort of speaker phone equipment would be necessary for this to occur. If a governing body decides to allow participation by telephone, it is advisable to authorize such in its rules, including under what circumstances it will be allowed.

May a quorum of a city or county legislative body attend, as members of the audience, a citizens' group meeting?

Yes, provided that the members attending the meeting do not discuss, as a group, city or county or district business, as the case may be, or otherwise take "action" within the meaning of the Act.²⁶ That possibility could in most circumstances be avoided by not sitting as a group.

May an entire county council attend a private dinner in honor of the out-going county official without complying with the Open Public Meetings Act?

Again, the issue comes down to whether the council will be dealing with county business. It can be argued that honoring the county official is itself county business. On the other hand, it could be argued that honoring an individual who is leaving county employment does not involve the functioning of the county. This is a gray area where caution should be exercised.

Must the public be allowed to attend the annual city council retreat?

Yes. A retreat attended by a quorum of the council where issues of city business are addressed constitutes a meeting.

²⁶See AGO 2006 No. 6.

What Procedural Requirements Apply to Meetings?

The Act establishes some basic procedural requirements that apply to all meetings of a governing body, whether they are regular or special meetings. *All meetings of a governing body are, under the Open Public Meetings Act, either regular or special meetings.* It does not matter if it is called a “study session” or a “workshop” or a “retreat,” it is either a regular or special meeting.

What is a regular meeting?

A regular meeting is one that is held according to a schedule adopted by ordinance, resolution, order, or rule, as may be appropriate for the governing body.²⁷

What is a special meeting?

A special meeting is any meeting that is not a regular meeting. In other words, special meetings are not held according to a fixed schedule. Under the Act, special meetings have specific notice requirements, as discussed below. Also, governing bodies may be subject to specific limitations about what may be done at a special meeting.²⁸

What procedural requirements apply to all meetings of a governing body?

The following requirements and prohibitions apply to both regular and special meetings of a governing body:

²⁷See RCW 42.30.060, .070, .080. Also, state law, though not the Open Public Meetings Act, may require the governing body of a city, county, or special district to meet with a certain regularity, such as monthly. For example, second class and code city councils, town councils, and the board of directors of any school district must meet at least once a month. RCW 35.23.181; RCW 35.27.270; RCW 35A.12.110; RCW 28A.343.380.

²⁸For example, second class city councils may not pass an ordinance or approve a contract or a bill for the payment of money at a special meeting. RCW 35.23.181. Town councils may not pass a resolution or order for the payment of money at a special meeting. RCW 35.27.270. Many special purpose districts are subject to requirements that certain actions can be taken only at a regular meeting, i.e., not at a special meeting. See, e.g., RCW 54.16.100 (appointment and removal of public utility district manager); RCW 85.05.410 (setting compensation of board of diking district commissioners). The councils of first class and code cities and county legislative bodies have no specific limitations on actions that may be taken at a special meeting, other than those imposed by the Open Public Meetings Act.

- All meetings must be open to the public.²⁹
- A member of the public may not be required as a condition of attendance to register his or her name or other information, or complete a questionnaire, or be required to fulfill any other condition to be allowed to attend.³⁰
- The governing body may require the removal of members of the public who disrupt the orderly conduct of a meeting. If order cannot be restored by removal of individuals, the governing body may order the meeting room cleared and may continue in session or it may adjourn and reconvene the meeting at another location, subject to the limitations in RCW 42.30.050.³¹
- Votes may not be taken by secret ballot.³²
- Meetings may be adjourned or continued subject to the procedures in RCW 42.30.090, as discussed below.
- The governing body may meet in executive (closed) session, but only for one of the reasons specified in and in accordance with the procedures identified in RCW 42.30.110.³³ See discussion on executive sessions.

Although the Act gives the public the right to attend meetings, the public has no statutory right to speak at meetings. However, as a practical and policy matter, city, county, and special district governing bodies generally provide the public some opportunity to speak at meetings.

The Open Public Meetings Act does not require that a city or county legislative body or special district governing body hold its meetings within the city or in a particular place in the county or district. However, other statutes provide that the councils of code cities, second class cities, and towns may take final actions on ordinances and resolutions only at a meeting within the city or

²⁹RCW 42.30.030.

³⁰RCW 42.30.040.

³¹That statute provides in relevant part as follows

In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

³²RCW 42.30.060(2). Any vote taken by secret ballot is null and void.

³³But, see footnote 44.

town.³⁴ Also, county legislative bodies must hold their regular meetings at the county seat,³⁵ but may hold special meetings in the county outside of the county seat if there are agenda items that “are of unique interest or concern” to the residents of the area of the county in which the meetings are held.³⁶ Some special purpose district governing bodies, such as first class school district boards of directors,³⁷ are specifically required to hold their regular meetings within the district, while others, such as irrigation districts,³⁸ are specifically required to hold meetings in the county where the district is located. Where the statutes are silent as to where meetings must be held for a particular type of district, they should be held, if possible, within the district or, at the very least, within the county in which the district is located.

What procedural requirements apply specifically to regular meetings?

- The date and time of regular meetings must be established by ordinance, resolution, order, or rule, as may be required for the particular governing body.³⁹
- If the regular meeting date falls on a holiday, the meeting must be held on the next business day.⁴⁰

What procedural requirements apply specifically to special meetings?

The procedural requirements that apply to special meetings deal primarily with the notice that must be provided. These requirements, contained in RCW 42.30.080, are as follows:

³⁴RCW 35.23.181; 35.27.270; 35A.12.110. Although meetings need not necessarily be held within a city, when a governing body decides to hold one outside the city, it should not site the meeting at a place so far from the city as to effectively prevent the public from attending.

³⁵RCW 36.32.080.

³⁶RCW 36.32.090.

³⁷RCW 28A.330.070.

³⁸RCW 87.03.115.

³⁹The Act does not directly address designating (in the ordinance, resolution, order, or rule designating the date and time of regular meetings) the place at which regular meetings will be held. RCW 42.30.070. However, the statutes governing the particular classes of cities, except those governing first class cities, require designation of the site of regular council meetings. RCW 35A.12.110; 35.23.181; 35.27.270. The county statutes and those relating to special purpose districts do not address designating the site of regular meetings. However, counties, first class cities, and special purpose districts should, of course, also designate the site of regular meetings along with the designation of the date and time of those meetings.

⁴⁰RCW 42.30.070.

- A special meeting may be called by the presiding officer or by a majority of the members of the governing body.⁴¹
- Written notice must be delivered personally, by mail, by fax, or by e-mail at least 24 hours before the time of the special meeting to:
 - each member of the governing body, and to
 - each local newspaper of general circulation and each local radio or television station that has on file with the governing body a written request to be notified of that special meeting or of all special meetings.⁴²
- Notice of the special meeting must be provided to the public as follows:
 - “prominently displayed” at the main entrance of the agency’s principal location, and at the meeting site if the meeting will not held at the agency’s principal location; and
 - posted on the agency’s web site. Web site posting is not required if the agency:
 - does not have a web site;
 - has fewer than 10 full-time equivalent employees; or
 - does not employ personnel whose job it is to maintain or update the web site.
- The notice must specify:
 - the time and place of the special meeting, and
 - the business to be transacted at the special meeting.

⁴¹There is a conflict between the provision in RCW 42.30.080 authorizing a majority of the members of a governing body to call a special meeting and the provision for code cities in RCW 35A.12.110 authorizing three members of the city council to call a special meeting. This conflict occurs only with respect to a code city with a seven-member council, because three members is less than a majority. Since RCW 42.30.140 provides that the provisions of the Act will control in case of a conflict between it and another statute, four members of a seven-member code city council, not three, are needed to call a special meeting.

⁴²Note also that statutes relating to each class of city require that cities

establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

RCW 35A.12.160; 35.22.288; 35.23.221; 35.27.300. There are no similar statutes that apply to counties or special purpose districts. Nevertheless, we recommend that counties and special districts establish like procedures for notifying the public.

- The governing body may take final action *only* concerning matters identified in the notice of the meeting.⁴³
- Written notice to a member or members of the governing body is not required when:
 - a member files at or prior to the meeting a written waiver of notice or provides a waiver by telegram, fax, or e-mail; or
 - the member is present at the meeting at the time it convenes.
- Special meeting notice requirements may be dispensed with when a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when the time requirements of the notice would make notice impractical and increase the likelihood of such injury or damage.⁴⁴ An emergency meeting must, nevertheless, be open to the public.⁴⁵

What procedural requirements apply to adjournments of regular or special meetings?

A regular or special meeting may be adjourned to a specified time and place, where it will be continued. There are a number of circumstances under which a meeting might be adjourned. A meeting may be adjourned and continued to a later date because the governing body did not complete its business. The Act, in RCW 42.30.090, addresses two other circumstances under which a meeting may be adjourned and continued at a later date:

- When the governing body does not achieve a quorum. In that circumstance, less than a quorum may adjourn a meeting to a specified time and place; or
- When all members are absent from a *regular meeting* or an *adjourned regular meeting*. In that instance, the clerk of the governing body may adjourn the meeting to a stated time and place, with notice provided as required for a special meeting, unless notice is waived as provided for special meetings. However, the resulting meeting is still considered a regular meeting.

Notice of an adjourned meeting is to be provided as follows:

- An order or notice of adjournment, specifying the time and place of the meeting to be continued, must be “conspicuously posted” immediately following adjournment on or

⁴³This does not prevent a governing body from discussing or otherwise taking less than final action with respect to a matter not identified in the notice.

⁴⁴The type of emergency contemplated here is a severe one that “involves or threatens physical damage” and requires urgent or immediate action. *Mead Sch. Dist. No. 354 v. Mead Educ. Ass’n*, 85 Wn.2d 140, 144-45 (1975).

⁴⁵*Teaford v. Howard*, 104 Wn.2d 580, 593 (1985)

near the door of the place where the meeting was held.

- Notice of a regular meeting adjourned by the clerk when all members of the governing body are absent must be provided in the same manner as for special meetings.
- If the notice or order of an adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it must be held at the hour specified for regular meetings by ordinance, resolution, or other rule.

If the governing body is holding a hearing, the hearing may be continued at a later date by following the same procedures for adjournment of meetings.⁴⁶

Further Questions

Must a city, county, or special purpose district provide published notice of a special meeting?

No, not under the Open Public Meetings Act. While notice must be provided to media that have on file a request to be notified of special meetings, this is not equivalent to a publishing requirement. Of course, if the governing body has adopted a requirement of published notice for special meetings, that requirement must be followed.

May notice to the media of a special meeting be provided by fax or e-mail?

Yes. Legislation passed in 2005 amended RCW 42.30.080 to allow notice by fax or e-mail.

May a governing body prohibit a member of the public from tape recording or videotaping a meeting?

No, there is no legal basis for prohibiting the audio or videotaping of a meeting, unless the taping disrupts the meeting. If the governing body enacted such a rule, it essentially would be conditioning attendance at a meeting on not recording the meeting. This would be contrary to RCW 42.30.040, which prohibits a governing body from imposing any condition on attending a public meeting.⁴⁷

⁴⁶RCW 42.30.100.

⁴⁷See AGO 1998 No. 15.

How can a majority of the governing body agree outside of a formal meeting to call a special meeting without violating the Act?

Since a majority of the governing body, under RCW 42.30.080, may call a special meeting "at any time," it would indeed be an anomaly if, in calling for that meeting, the majority would be considered to have violated the Act. In our opinion, the only way to give effect to this statutory provision is to allow a majority to communicate as a group in some way (e.g., by phone, e-mail, in person, or through the clerk's office) to decide whether to have a special meeting, when to have it, and what matters it will deal with. The members could not discuss anything else, such as the substance of the matters to be discussed at the special meeting.

When May a Governing Body Hold an Executive Session?

What is an executive session?

“Executive session” is not expressly defined in the Open Public Meetings Act, but the term is commonly understood to mean that part of a regular or special meeting of a governing body that is closed to the public. A governing body may hold an executive session only for specified purposes, which are identified in RCW 42.30.110(1)(a)-(o),⁴⁸ and only during a regular or special meeting. Nothing, however, prevents a governing body from holding a meeting, which complies with the Act’s procedural requirements, for the sole purpose of having an executive session.

A governing body should always follow the basic rule that it may not take final action in an executive session. However, there may be circumstances, as discussed below, where the governing body will need to reach a consensus concerning the matter being considered in closed session. Nevertheless, as discussed below, recent case law casts doubt on the authority of a governing body to reach a consensus regarding *any* matter in executive session.

Who may attend an executive session?

Attendance at an executive session need not be limited to the members of the governing body. Persons other than the members of the governing body may attend the executive session at the invitation of that body.⁴⁹ Those invited should have some relationship to the matter being addressed in the closed session, or they should be attending to otherwise provide assistance to the governing body. For example, staff of the governing body or of the governmental entity may

⁴⁸There is at least one statute outside of the Open Public Meetings Act that authorizes an executive session for a purpose not identified in RCW 42.30.110(1)(a)-(o). RCW 70.44.062 authorizes the board of commissioners of a public hospital district to meet in executive session “concerning the granting, denial, revocation, restriction, or other consideration of the status of the clinical or staff privileges of a physician or other health care provider” or “to review the report or the activities of a quality improvement committee.”

⁴⁹When the governing body is meeting in executive session to discuss litigation or potential litigation, legal counsel *must* be present and take part in the discussion. RCW 42.30.110(1)(i).

be needed to present information or to take notes or minutes. However, minutes are not required to be taken at an executive session.⁵⁰

What procedures must be followed to hold an executive session?

Before a governing body may convene in executive session, the presiding officer must publicly announce the executive session to those attending the meeting by stating two things:

- the purpose of the executive session, and
- the time when the executive session will end.

The announced purpose of the executive session must be one of the statutorily-identified purposes for which an executive session may be held. The announcement must contain enough detail to identify the purpose as falling within one of those identified in RCW 42.30.110(1).

If the executive session is not over at the stated time, it may be extended only if the presiding officer announces to the public at the meeting place that it will be extended to a stated time. If the governing body concludes the executive session *before* the time that was stated it would conclude, it should not reconvene in open session until the time stated. Otherwise, the public may, in effect, be excluded from that part of the open meeting that occurs between the close of the executive session and the time that was announced for the conclusion of the executive session.

What are the allowed purposes for holding an executive session?

An executive session may be held only for one or more of the purposes identified in RCW 42.30.110(1). The purposes addressed below are those which have practical application to cities, counties, and special purpose districts. A governing body of a city, county, or special district may meet in executive session for the following reasons:

- *To consider matters affecting national security;*

Until the events of September 11, 2001, this provision had little, if any, practical application to cities, counties, or special districts. However, since the events of September 11, 2001, it has become clear that local security issues may in some instances have national security implications. So, discussions by city, county, or district governing bodies of security matters relating to possible terrorist activity should come within the ambit of this executive session provision. This would include discussions of vulnerability or response assessments relating to criminal terrorist activity.

⁵⁰See RCW 42.32.030.

- *To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price,*⁵¹

This provision has two elements:

- the governing body must be considering either purchasing or leasing real property; and
- public knowledge of the governing body's consideration would likely cause an increase in the price of the real property.

The consideration of the purchase of real property under this provision can involve condemnation of the property, including the amount of compensation to be offered for the property.⁵²

Since this provision recognizes that the process of purchasing or leasing real property or selecting real property to purchase or lease may justify an executive session, it implies that the governing body may need to reach some consensus in closed session as to the price to be offered or the particular property to be selected.⁵³ However, the state supreme court has emphasized that “only the action explicitly specified by [an] exception may take place in executive session.”⁵⁴ Taken literally, this limitation would preclude a governing body in executive session from actually selecting a piece of property to acquire or setting a price at which it would be willing to purchase property, because such action would be beyond mere “consideration.” Yet, the purpose of allowing this type of consideration in an executive session would be seemingly defeated by requiring a vote in open session to select the property or to decide how much to pay for it, where public knowledge of these matters would likely increase its price. While this issue awaits judicial or legislative resolution, city and county legislative bodies and special district governing bodies should exercise caution.

⁵¹RCW 42.30.110(1)(b).

⁵²*Port of Seattle v. Rio*, 16 Wn. App. 718, 724 (1977).

⁵³See *Port of Seattle v. Rio*, 16 Wn. App. at 723-25.

⁵⁴*Miller v. Tacoma*, 138 Wn.2d 318, 327 (1999). See also, *Feature Realty, Inc. v. Spokane*, 331 F.3d 1082 (9th Cir. 2003).

- *To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;*⁵⁵

This subsection, the reverse of the previous one, also has two elements:

- the governing body must be considering the minimum price at which real property belonging to the city or county will be offered for sale or lease; and
- public knowledge of the governing body's consideration will likely cause a decrease in the price of the property.

The requirement here of taking final action selling or leasing the property in open session may seem unnecessary, since all final actions must be taken in a meeting open to the public. However, its probable purpose is to indicate that, although the decision to sell or lease the property must be made in open session, the governing body may decide in executive session the minimum price at which it will do so. However, see the discussion regarding the previous provision for meeting in executive session and taking any action in executive session that is not expressly authorized.

If there would be no likelihood of a change in price if these real property matters are considered in open session, then a governing body should not meet in executive session to consider them.

- *To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;*⁵⁶

This subsection indicates that when a city, county, or special district and a contractor performing a publicly bid contract are negotiating over contract performance, the governing body may “review” those negotiations in executive session if public knowledge of the review would likely cause an increase in contract costs. MRSC is not aware of an executive session being held under this provision. It is not clear what circumstances would result in a governing body meeting in executive session under this provision.

⁵⁵RCW 42.30.110(1)(c).

⁵⁶RCW 42.30.110(1)(d).

- *To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;*⁵⁷

For purposes of meeting in executive session under this provision, a “charge” or “complaint” must have been brought against a city, county, or special district officer or employee. The complaint or charge could come from within the city, county, or district or from the public, and it need not be a formal charge or complaint. The bringing of the complaint or charge triggers the opportunity of the officer or employee to request that the discussion be held in open session.⁵⁸

As a general rule, city governing bodies that are subject to the Act do not deal with individual personnel matters.⁵⁹ For example, the city council should not be involved in individual personnel decisions, as these are within the purview of the administrative branch under the authority of the mayor or city manager.⁶⁰ This provision for holding an executive session should not be used as a justification for becoming involved in personnel matters which a governing body may have no authority to address.

- *To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;*⁶¹

There are two different purposes under this provision for which a governing body may meet in executive session. For both purposes, the references to “public employment” and to “public employee” include within their scope public offices and

⁵⁷RCW 42.30.110(1)(f).

⁵⁸Another possible interpretation of this provision is that the officer or employee subject to the complaint or charge may request that the complaint or charge be heard by the governing body in open session, *in addition to* rather than instead of a discussion of the complaint or charge in executive session. This provision, however, has not been addressed by the courts.

⁵⁹A civil service commission is an obvious exception. It, however, addresses personnel actions taken against a covered officer or employee, and it does so in the context of a formal hearing. Another exception is where the governing body may be considering a complaint against one of its members. Also, when a city council has confirmation authority over a mayoral appointment, it may discuss the appointment that is subject to confirmation in executive session.

⁶⁰An exception is where the council, in a council-manager city, may be considering a complaint or charge against the city manager.

⁶¹RCW 42.30.110(1)(g).

public officials. This means that a governing body may evaluate in executive sessions persons who apply for appointive office positions, such as city manager, as well as those who apply for employee positions.⁶²

The first purpose involves evaluating the qualifications of applicants for public employment. This could include personal interviews with an applicant, discussions concerning an applicant's qualifications for a position, and discussions concerning salaries, wages, and other conditions of employment personal to the applicant.

This authority to "evaluate" applicants in closed session allows a governing body to discuss the qualifications of applicants, not to choose which one to hire (to the extent the governing body has any hiring authority). Although this subsection expressly mandates that "final action hiring" an applicant for employment be taken in open session, this does not mean that a governing body may take preliminary votes in executive session that eliminate candidates from consideration.⁶³

The second part of this provision concerns reviewing the performance of a public employee. Typically this is done where the governing body is considering a promotion or a salary or wage increase for an individual employee or where it may be considering disciplinary action.⁶⁴

The result of a governing body's closed session review of the performance of an employee may be that the body will take some action either beneficial or adverse to the officer or employee. That action, whether raising a salary of or disciplining an officer or employee, must be made in open session.

Any discussion involving salaries, wages, or conditions of employment to be "generally applied" in the city, county, or district must take place in open session. However, discussions that involve collective bargaining negotiations or strategies are not subject to the Open Public Meetings Act and may be held in closed session without being subject to the procedural requirements for an executive session.⁶⁵

⁶²The courts have, for various purposes, distinguished between a public "office" and a public "employment." See, e.g., *Oceanographic Comm'n v. O'Brien*, 74 Wn.2d 904, 910-12 (1968); *State ex rel. Hamblen v. Yelle*, 29 Wn.2d 68, 79-80 (1947); *State ex rel. Brown v. Blew*, 20 Wn.2d 47, 50-52 (1944). A test used to distinguish between the two is set out in *Blew*, 20 Wn.2d at 51.

⁶³*Miller v. Tacoma*, 138 Wn.2d 318, 329-31 (1999).

⁶⁴In general, a city council has little or no authority regarding discipline of public officers or employees. An exception would be a city manager over which the council has removal authority. RCW 35A.13.130; 35.18.120.

⁶⁵See RCW 42.30.140(4).

- *To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;*⁶⁶

This provision applies to a city, county, or district governing body only when it is filling a vacant elective position. Under this provision, the governing body may meet in executive session to evaluate the qualifications of applicants for the vacant position. However, any interviews with the candidates must be held in open session. As with all other appointments, the vote to fill the position must also be in open session.

- *To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.*

*This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present.*⁶⁷

For purposes of this subsection (1)(i), “potential litigation” means matters protected by RPC 1.6⁶⁸ or RCW 5.60.060(2)(a)⁶⁹ concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

⁶⁶RCW 42.30.110(1)(h).

⁶⁷RCW 42.30.110(1)(i).

⁶⁸RPC 1.6 is part of the Rules of Professional Conduct for attorneys, and it deals specifically with client confidentiality, generally prohibiting disclosure of client confidences except in certain specific situations.

⁶⁹RCW 5.60.060(2)(a) provides that an attorney may not be compelled to be a witness at trial and reveal client confidences.

Three basic requirements must be met before this provision can be used by a governing body to meet in closed session.⁷⁰

- The attorney or special legal counsel representing the city, county, or special district must attend the executive session to discuss the enforcement action or the litigation or potential litigation;
- The discussion with legal counsel must concern either an enforcement action or litigation or potential litigation to which the city, county, district, a governing body, or one of its members is or is likely to become a party; and
- Public knowledge of the discussion would likely result in adverse legal or financial consequence to the city, county, or district.

The potential litigation issue. Until this section was amended in 2001 to define “potential litigation,” the scope of this provision was unclear and subject to a range of interpretations. The 2001 legislature expanded the meaning of that term to authorize governing bodies to discuss in executive session the legal risks of a proposed or existing practice or action, when discussing those risks in open session would likely have an adverse effect on the agency’s financial or legal position. This allows a governing body to freely consider the legal implications of a proposed decision or an existing practice without the attendant concern that some future litigation position might be jeopardized.

The probability of adverse consequence to the city or county. It is probable that public knowledge of most governing body discussions of existing litigation would result in adverse legal or financial consequence to the city, county, or district. Knowledge by one party of the communications between the opposing party and its attorney concerning a lawsuit will almost certainly give the former an advantage over the latter. The same probably can be said of most discussions that qualify as involving potential litigation.

The state supreme court has held that a governing body is not required to determine beforehand whether public knowledge of the discussion with legal counsel would likely have adverse consequences; it is sufficient if the agency, from an objective standard, should know that the discussion is not benign and that public knowledge of it will likely result in adverse consequences.⁷¹

⁷⁰This provision for holding an executive session is based on the legislative recognition that the attorney-client privilege between a public agency governing body and its legal counsel can co-exist with the Open Public Meetings Act. See *Final Legislative Report, Forty-Ninth Legislature, 1985 Regular and 1st Special Sessions*, at 270-71; see also *Recall of Lakewood City Council*, 144 Wn.2d 583, 586-87 (2001); *Port of Seattle v. Rio*, 16 Wn. App.718, 724-25 (1977); AGO 1971 No. 33, at 20-23. However, that privilege is not necessarily as broad as it may be between a private party and legal counsel.

⁷¹*Recall of Lakewood City Council*, 144 Wn.2d 583, 586-87 (2001).

Again, no final action in executive session. The purpose of this executive session provision is to allow the governing body to discuss litigation or enforcement matters with legal counsel; the governing body is not authorized to take final action regarding such matters in an executive session. And, recent case law emphasizes that, in order for any action to take place legally in executive session, authority must be “explicitly specified” in an exemption under RCW 42.30.110(1), though that case law did not address this exemption.⁷² The only action that is specifically authorized in this exemption is discussion.

However, since a basic purpose of shielding these discussions from public view is to protect the secrecy of strategic moves concerning litigation, the scope of a governing body's authority in executive session should be interpreted to afford that protection. So, for example, while this provision does not authorize a governing body to approve a settlement agreement in executive session, it should provide authority for that body to authorize its legal counsel to settle a case for no higher than a certain amount. An interpretation supporting the council's authority to take such action appears warranted, *but* such an interpretation may not be supported by the strict language in recent case law.

Further Questions

May an executive session be called to discuss “personnel matters”?

No, this would not be a legally sufficient reason to hold an executive session. The purpose for holding an executive session must be within those specifically identified in RCW 42.30.110(1). Although there are personnel issues that may be addressed in an executive session under this statute, such as complaints or charges against an employee or an employee's performance, “personnel matters” is too broad a purpose and could include purposes not authorized by the statute.

May a city council meet in executive session to ask the mayor to resign?

No. Although the council could meet in executive session to discuss complaints or charges against the mayor, the council should take the action of asking for the mayor's resignation in open session. (Of course, a mayor is not legally bound by the council's wishes.)

⁷²*Miller v. Tacoma*, 138 Wn.2d 318, 327 (1999). See also, *Feature Realty, Inc. v. Spokane*, 331 F.3d 1082 (9th Cir. 2003).

May the board of a special purpose district meet in executive session at a special meeting if the notice of the special meeting did not identify that an executive session would be held?

Yes. The prohibition in RCW 42.30.080 on taking final disposition on any matter not identified in the special meeting notice does not apply to holding an executive session, because that does not involve final disposition on any matter. The board is already prohibited from taking final action in an executive session. Nevertheless, from a policy standpoint, the notice should identify the executive session if the board knows at the time of giving the notice that it will be meeting in executive session at the special meeting.

If three members of a seven-member city council interview candidates for a council vacancy, must those interviews be open to the public?

Yes. Although they do not represent a quorum of the council, the three councilmembers would be acting on behalf of the entire council in conducting these interviews. As such, they would be considered a "governing body" subject to the Act. Since interviews by a governing body of candidates for appointment to elective office must occur in an open meeting (RCW 42.30.110(1)(h)), this three-member committee may not meet in executive session for the purpose of interviewing the candidates.

What Meetings Are Exempt from the Act?

RCW 42.30.140 sets out four situations where a governing body may meet and not be subject to any requirements of the Open Public Meetings Act. That statute provides that the Act does not apply to:

- *The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary;*

This provision, for the most part, has little, if any, application to any city, county, or special district governing body. One type of proceeding where it has been used is where a city provides for a hearing before revoking a business license.⁷³

- *That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group;*

This exception applies when a governing body is acting in a quasi-judicial capacity.⁷⁴ Typically, a city or county governing body is acting in a quasi-judicial capacity in certain land use actions such as site-specific rezones, conditional use applications, variances, and preliminary plat applications. Other examples include the civil service commission when it is considering an appeal of a disciplinary decision and the LEOFF disability board when it is considering an application for disability benefits.

⁷³See *Cohen v. Everett City Council*, 85 Wn.2d 385, 386 (1975).

⁷⁴The courts have employed a four-part test to determine whether a matter qualifies under the quasi-judicial action exemption from the Open Public Meetings Act (RCW 42.30.140(2)): (1) whether the action is one a court could have been charged to determine; (2) whether it is one historically performed by courts; (3) whether it involves the application of existing law to past or present facts for purposes of enforcing or declaring liability; and (4) whether it resembles the ordinary business of courts more than that of legislators or administrators. *Raynes v. Leavenworth*, 118 Wn.2d 237, 244 (1992). See also, RCW 42.36.010 (definition of quasi-judicial land use actions, for purposes of the appearance of fairness doctrine); *The Appearance of Fairness Doctrine in Washington State*, MRSC Report No. 32 (January 1995), at 6-8 (discussion of quasi-judicial land use actions).

However, where a public hearing is required for a quasi-judicial matter, only the deliberations by the body considering the matter can be in closed session.

- *Matters governed by chapter 34.05 RCW, the Administrative Procedures Act;*

This exception has no application to cities, counties, or special purpose districts.

- *Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.*

The language of this exception is basically self-explanatory.⁷⁵ However, the term “professional negotiations” must be interpreted in the context of collective bargaining; it should not be interpreted to apply generally to negotiations for professional services.

Further Questions

Does the Open Public Meetings Act require that a civil service commission hearing regarding a police officer's appeal of disciplinary action be open to the public?

No, because such a hearing would fall under the exception from the Act in RCW 42.30.140(2) for quasi-judicial matters. However, since RCW 41.12.090 requires that such a hearing be public, the Act's exemption does not apply. The commission may nevertheless deliberate in private.

Must the city council give any notice under the Act when it is meeting to discuss the strategy to be taken during collective bargaining with an employee union?

No. Under RCW 42.30.140(4), this meeting is exempt from the Open Public Meetings Act. The council may therefore meet without notifying anyone. Of course, each of the councilmembers should be notified.

⁷⁵City, county, and special district governing bodies should be aware that this exemption from the Act does not protect from public disclosure documents that are introduced at such a meeting. *ACLU of WA v. City of Seattle*, 121 Wn. App. 544 (2004).

What Are the Penalties for Violating the Act?

The only avenue provided by the Open Public Meetings Act to enforce its provisions or to impose a penalty for a violation of its provisions is by an action in superior court. “Any person” may bring that action in superior court. If a superior court determines that a violation has occurred, liability may be imposed as follows:

- *Individual liability.* Members of a governing body who attend a meeting where action is taken in violation of the Act are subject to a \$100 penalty *if* they attend with knowledge that the meeting is in violation of the Act.⁷⁶ Violation of the Act is not a criminal offense. The penalty is assessed by the superior court, and any person may bring an action to enforce the penalty.

Also, a knowing or intentional violation of the Act may provide a legal basis for recall of an elected member of a governing body, although recall is not a penalty under the Act.⁷⁷

- *City, county, or district liability.* The city, county, or district is liable for all costs, including reasonable attorney fees.⁷⁸

However, if a court determines by written findings that an action for violation of the Act was “frivolous and advanced without reasonable cause,” a city, county, or district *may* be awarded reasonable expenses and attorney fees.⁷⁹

In addition to the above, any person may bring an action by mandamus or injunction to stop violations of the Act or to prevent threatened violations.⁸⁰

Actions in violation of the Act are null and void. Any ordinance, resolution, rule, regulation, order, or directive that is adopted at a meeting that does not comply with the Act, and any secret

⁷⁶RCW 42.30.120(1).

⁷⁷See *Recall of Lakewood City Council*, 144 Wn.2d 583, 586 (2001); *In re Recall of Kast*, 144 Wn.2d 807, 817 (2001).

⁷⁸RCW 42.30.120(2).

⁷⁹*Id.*

⁸⁰RCW 42.30.130.

vote taken, is null and void.⁸¹ This does not, however, mean that a subsequent action that complies with the Act is also invalidated.⁸² But, where action taken in open session merely ratifies an action taken in violation of the Act, the ratification is also null and void.⁸³

⁸¹RCW 42.30.060.

⁸²*OPAL v. Adams County*, 128 Wn.2d 869, 883 (1996); *Clark v. City of Lakewood*, 259 F.3d 996 (9th Cir. 2001); see also, AGO 1971 No. 33 at 40.

⁸³*Clark v. City of Lakewood*, 259 F.3d at ___, n. 10; see, *Miller v. Tacoma*, 138 Wn.2d at 329-31.

Selected Cases and Attorney General Opinions

AGO 1971 No. 33 – This AGO contains a comprehensive overview of the scope of the Open Public Meetings Act, as it was enacted in 1971. Although parts of the Act have been amended since 1971, much of it remains the same.

RCW 42.30.010 – Legislative Declaration (Purpose of Act)

- *Cathcart v. Anderson*, 85 Wn.2d 102 (1975).
- *Equitable Shipyards v. State*, 93 Wn.2d 465 (1980).

RCW 42.30.020 – Definitions

- *West v. Wash. Ass'n of County Officials*, 162 Wn. App. 120 (2011).
- *Eugster v. City of Spokane*, 110 Wn. App. 212, *review denied*, 147 Wn.2d 1021 (2002).
- *Wood v. Battle Ground School District*, 107 Wn. App. 550 (2001).
- *Clark v. City of Lakewood*, 259 F.3d 996 (9th Cir. 2001).
- *Miller v. City of Tacoma*, 138 Wn.2d 318 (1999).
- *Improvement Alliance v. Snohomish Cy.*, 61 Wn. App. 64 (1991).
- *Refai v. Central Wash. Univ.*, 49 Wn. App. 1 (1987), *review denied*, 110 Wn.2d 1006 (1988).
- *Estey v. Dempsey*, 104 Wn.2d 597 (1984).
- AGO 2010 No. 9.
- AGO 2006 No. 6.
- AGO 1986 No. 16 – Applicability of Open Public Meetings Act to a committee of the governing body.

RCW 42.30.030 – Meetings Declared Open and Public.

- AGO 1992 No. 21.

RCW 42.30.040 – Conditions to Attendance Not to be Required.

- AGO 1998 No. 15.

RCW 42.30.060 – Actions in Violation of Act Are Null and Void.

- *Eugster v. City of Spokane*, 128 Wn. App. 1 (2005).
- *Eugster v. City of Spokane*, 110 Wn. App. 212, *review denied*, 147 Wn.2d 1021 (2002).
- *Recall of Lakewood City Council*, 144 Wn.2d 583 (2001).
- *OPAL v. Adams County*, 128 Wn.2d 869 (1996).
- *Snohomish County Improv. Alliance v. Snohomish County*, 61 Wn. App. 64 (1991).
- *Henry v. Oakville*, 30 Wn. App. 240 (1981).
- *Slaughter v. Fire District*, 50 Wn. App. 733 (1988).
- *Mead School Dist. v. Mead Education Assoc.*, 85 Wn.2d 140 (1975).

RCW 42.30.070 – Time and Places for Meetings – Emergencies

- *In re Recall of Roberts*, 115 Wn.2d 551 (1990).
- *Teaford v. Howard*, 104 Wn.2d 580 (1985).
- *Mead School Dist. v. Mead Education Assoc.*, 85 Wn.2d 140 (1975).
- AGO 1992 No. 21.

RCW 42.30.080 – Special Meetings

- *Estey v. Dempsey*, 104 Wn.2d 597 (1985).
- *Dorsten v. Port of Skagit County*, 32 Wn. App. 785 (1982).
- *Kirk v. Fire Protection Dist.*, 95 Wn.2d 769 (1981).

RCW 42.30.110 – Executive Sessions

- *Recall of Lakewood City Council*, 144 Wn.2d 583 (2001).
- *Miller v. City of Tacoma*, 138 Wn.2d 318 (1999).

- *Port of Seattle v. Rio*, 16 Wn. App. 718 (1977).
- *Feature Realty, Inc. v. Spokane*, 331 F.3d 1082 (9th Cir. 2003).

RCW 42.30.120 – Violations - Personal Liability -
Penalty - Attorney Fees and Costs

- *Eugster v. City of Spokane*, 110 Wn. App. 212, review denied, 147 Wn.2d 1021 (2002).
- *Wood v. Battle Ground School District*, 107 Wn. App. 550 (2001).
- *Protect the Peninsula's Future v. Clallam Cy.*, 66 Wn. App. 671 (1992).
- *Cathcart v. Anderson*, 10 Wn. App. 429 (1974).

RCW 42.30.130 – Violations - Mandamus or
Injunction

- *Protect the Peninsula's Future v. Clallam Cy.*, 66 Wn. App. 671 (1992).
- *Lopp v. Peninsula School Dist.*, 90 Wn.2d 754 (1978).

RCW 42.30.140 – Chapter Controlling -
Application (Exceptions)

- *ACLU of WA v. City of Seattle*, 121 Wn. App. 544 (2004).
- *Protect the Peninsula's Future v. Clallam Cy.*, 66 Wn. App. 671 (1992).
- *Pierce v. Lake Stevens School Dist.*, 84 Wn.2d 772 (1974).

County clean water fund axes Watershed Stewards

By ERIN MIDDLEWOOD
Columbian staff writer

Clark County is cutting funding for a popular environmental education program.

Watershed Stewards volunteers received an email Monday informing them that their program lost funding from the county's clean water fund, which otherwise was projected to run out of money next year.

"The Department of Environmental Services Clean Water Program will be redirecting funds to other priority areas," Douglas Stienbarger, director of the WSU Clark County Extension, wrote in an email to volunteers. "I want to thank DES and Public Works (where the Clean Water Program was

before DES) for their years of support for this great program."

Many of the program's 100 volunteers, who worked to improve area waterways, are upset. "There are many impassioned stewards that are heartbroken about this change," volunteer Tracy Sand said. "There is a lot of anger about the abrupt end to this beneficial program."

David Page, who has given 1,000 hours to the Watershed Stewards program, agreed: "Frankly, it didn't come as a big surprise to me considering the current power structure

On the Web

For documents regarding the Watershed Stewards, Master Gardeners and small acreage programs, log on to



www.columbian.com/documents

in the county, and Don Benton's appointment," he said.

Clark County Commissioners David Madore and Tom Mielke appointed Benton, a Republican state senator, to head the environmental services department last

spring.

At a work session with county commissioners last month, Benton raised the red flag about the county's clean water fund, which is replenished by fees paid annually by property owners.

Benton would not accept The Co-

WATERSHED, Page C3

10-2-13

WEDNESDAY, OCTOBER 2, 2013

CLARK COUNTY & NORTHWEST

Watershed

From Page C1

Columbian's phone call to inquire about the Watershed Stewards program, but referred a reporter to a county spokeswoman.

Two other programs that received money from the clean water fund were also on the block. The extension's program to educate owners of small-acre plots on how to reduce pollution may also lose its funding.

But the county plans to continue its grant to the Master Gardeners Program, said Mary Keltz, a county spokeswoman.

The county budgeted \$18.6 million for clean water programs for the 2013-2014 biennium. Of that, about \$72,000 each year went to the Watershed Stewards program, which relied entirely on the grant. A \$40,000-a-year grant provided about two-thirds of the Master Gardeners program's funding. A \$63,000 grant comprised 85 percent of the small-acreage program's budget.

Without cuts to the clean water budget, the balance would have dipped to \$2,672 by the end of 2014, said Bob Stevens of the county's budget office. Most of the clean water money goes toward planning, building and maintaining stormwater facilities.

The Watershed Stewards Program began in 1999 as part of the Lacamas Lake Restoration Program. A year later, Clark County began funding the program in cooperation with Washington State University Clark County Extension.

The program trains volunteers to become stewards who not only work on projects to improve water quality, but also educate others how to protect natural resources.

"You should be proud of what you have accomplished over the years," Steinbarger wrote to volunteers. "You reached 91,116 county residents in your outreach efforts."

Steinbarger said the program may be able to continue in an all-volunteer form, but he has yet to work out details.

Waterkeeper movement thrives from Maine to Nepal

Stewards strive to protect health of local waterways

BY CLARKE CAMERON
Associated Press

YARMOUTH, Maine — For 22 years, Joe Payne has patrolled the waters of Casco Bay, improving water quality, resolving clam flats, protesting young lobstermen and mobilizing oil spill-clean-up efforts.

Last month, he was honored for his work as Casco Bay waterkeeper with a new 28-foot vessel christened in his name. But he says he's equally proud of the increased numbers of waterkeepers who oversee and protect bays, rivers, sounds, channels, inlets, lakes and creeks in 23 countries, on six continents.

Payne realized a few years ago how much the waterkeeper movement had grown when he noticed how many translators were at the annual waterkeeper meeting.

"At that conference, when I heard the Russian, the Chinese and the other languages, I went Holy Moses, it worked. It's amazing," Payne said at a christening ceremony for his new boat in Yarmouth.

Waterkeepers are typically hired by nonprofit groups to be environmental watchdogs over local bodies of water. The first, John Cronin, came on board in 1983 as the Hudson riverkeeper to patrol the river, restore its fisheries and push for having environmental laws enforced.



JOE PAYNE PILOTS HIS VESSEL SEPT. 25 IN PORTLAND, MAINE. WHEN PAYNE WAS HIRED 22 YEARS AGO TO BE THE ENVIRONMENTAL STEWARD OF CASCO BAY, THERE WERE ONLY A HANDFUL OF WATERKEEPERS IN THE WORLD. NOW THERE ARE 209 OF THEM WHO OVERSEE AND PROTECT BAYS, RIVERS, SOUNDS, CHANNELS, INLETS, LAKES AND CREEKS IN 23 COUNTRIES ON SIX CONTINENTS.

In 1992, Payne and six other waterkeepers formed the Alliance of River, Sound and Baykeepers with the aim of growing their numbers. By 1999, their ranks had increased to 34, and they formed the Waterkeeper Alliance, an organization that sets standards for and certifies waterkeepers worldwide.

They're inspired'

Now, there are 209 members, including a bay-

oukkeeper in Louisiana, a canalkeeper in London and a wetlandskeeper in Australia. Waterkeeper Alliance Executive Director Marc Yaggt said waterkeepers are found in places as diverse as the Amazon River Basin, the Tigris River in Iraq and the Bagmati River in Nepal, which is considered holy by Hindus and Buddhists.

"I think people recognize we have a right to

clean water for swimming, drinking and fishing, and someone's got to stand up for it," Yaggt said. "They've seen the model work on Casco Bay; they've seen it work on the Hudson River, Long Island Sound and all these other waterways, and they're inspired to replicate it."

In Casco Bay, Payne looks the part of a mariner — barrel-chested with a big white beard — as he patrols the waters in his vessel, keeping tabs on the health of the 230-square-mile bay, which supports commercial fishing, recreation, tourism and shipping. Through the years, he has worked to combat pollution and had pump-out stations installed at marinas so boaters don't have to dispose of sewage from marine toilets at sea. When a tanker struck a bridge in Portland Harbor in 1996, spilling 180,000 gallons

of oil, Payne assembled a group of volunteers to help clean it up. For more than 20 years, he's run a water quality monitoring program where citizen stewards take temperature, salinity, acidity, oxygen, water clarity and other measurements of the bay on a regular basis.

Protect their home'

But he says he has it easy compared to others who have been scorned, harassed and even shot at, he said. One rule for waterkeepers is that they must have a boat, but the Waterkeeper Alliance made an exception for a riverkeeper in China.

"It's illegal to have a boat on this river, and that's not a bad idea because the ruffians will kill you," Payne said. "So he has a little tougher job than I do."

Payne has motivated others worldwide, said Andy Wilmer, the New Jersey-New York baykeeper from 1989 to 2008.

"Waterkeepers and the people who are drawn to the idea are people who have grown up in a place and want to protect that place," he said. "So whether that person is in India or England or Colombia, South America or China or the United States, they all have the same impulse, which is to protect their home."

Payne half-jokingly says he'd like to see waterkeepers on all seven continents — which would mean recruiting one for Antarctica. "We're going to make him an icekeeper," he said.

Waterkeeper Alliance

From Wikipedia, the free encyclopedia

Waterkeeper Alliance is an environmental organization founded in 1999, responding to a growing movement of organizations with the name Riverkeeper, Baykeeper, Soundkeeper, and other related "keeper" names, of which there are over 200 around the world.^[1] The original Riverkeeper, organized in 1983, started on the Hudson River in New York state, USA, in response to the destructive industrial pollution that was destroying the river.^{[2][3]} It was soon followed by Long Island Soundkeeper (which is still led by Terry Backer), Delaware Riverkeeper, San Francisco Baykeeper, New York/New Jersey Baykeeper, and others. Hudson Riverkeeper is now headed by Paul Gally, the chief executive since July, 2010.^[4]^[5]

Today, Waterkeeper Alliance, which is based out of New York, New York, unites all Waterkeeper organizations, coordinating and covering issues affecting Waterkeepers that work to protect rivers, lakes, bays, sounds, and other water bodies around the world. It's the fastest growing grassroots environmental movement in the world, spanning six continents. Each Waterkeeper organization is devoted to the preservation of specific watersheds.

Waterkeeper Alliance



Formation	1999
Headquarters	New York, NY, USA
Exec. Dir.	Marc Yaggi
President	Robert F. Kennedy, Jr.
Website	waterkeeper.org (http://www.waterkeeper.org/)

Contents

- 1 Goals and actions
- 2 Leadership
- 3 Notes
- 4 External links

Goals and actions

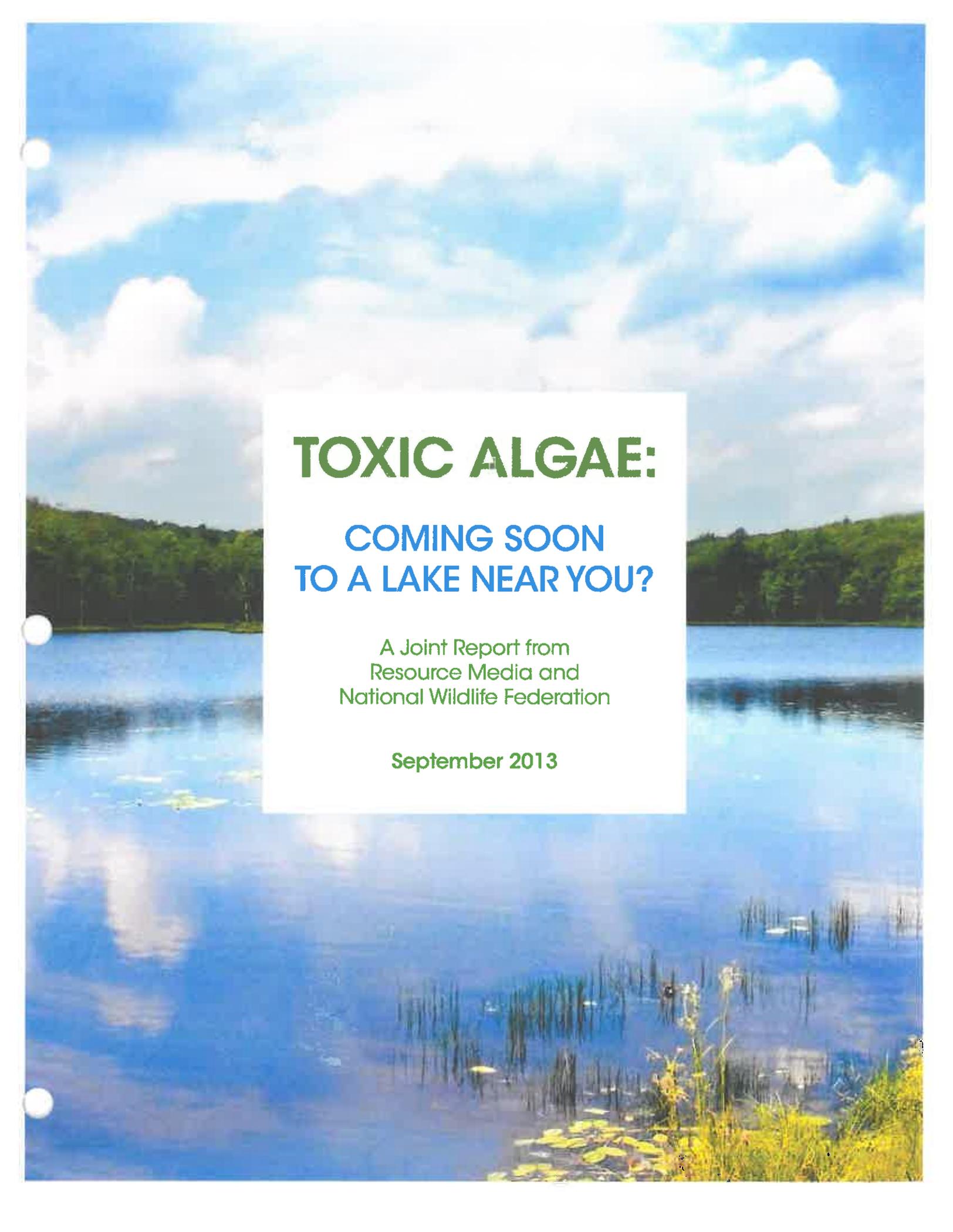
Two characteristics that have long distinguished Waterkeeper organizations are their grassroots focus, homing in on local water quality issues that impact the health and well-being of their local water body and local constituency, and also their commitment to enforcing the law, such as the U.S. Clean Water Act. When environmental regulators fail to enforce environmental laws, Waterkeeper Alliance and its members bring their own legal actions to stop illegal pollution. Upper Chattahoochee Riverkeeper, Orange County Coastkeeper, NY/NJ Baykeeper, San Francisco Baykeeper, Santa Monica Baykeeper, Mobile Baykeeper, Hudson Riverkeeper, Lake Ontario Waterkeeper, San Diego Coastkeeper and many other organizations.

Waterkeeper Alliance has several member organization working on the front line of cleanup and recovery efforts following the April 2010 BP oil disaster in the Gulf of Mexico. Waterkeepers on scene along the Gulf Coast include Apalachicola Riverkeeper and Emerald Coastkeeper in Florida; Mobile Baykeeper in Alabama; Atchafalaya Basinkeeper, Louisiana Bayoukeeper and Lower Mississippi Riverkeeper in Louisiana; and Galveston Baykeeper in Texas. These Gulf Waterkeepers have engaged volunteers, marine biologists, environmental advocates, and members of affected local communities in their cleanup and recovery efforts. Waterkeeper Alliance created the Save Our Gulf campaign and SaveOurGulf.org (<http://saveourgulf.org/>) to coordinate Waterkeeper efforts along the Gulf Coast.

As part of its Clean and Safe Energy campaign, Waterkeeper Alliance works to address sources of water pollution related to the mining, transportation, combustion, and disposal of coal. Waterkeeper Alliance's Pure Farms, Pure Waters campaign seeks to address water pollution related to industrial farming operations around the United States.

Leadership

Robert F. Kennedy, Jr. serves as President of Waterkeeper Alliance's Board of Directors. Karl Coplan and Joe Payne (Casco Baykeeper) serve respectively as Board Chair and Vice Chair. The organization's Executive Director is Marc Yaggi.



TOXIC ALGAE:

**COMING SOON
TO A LAKE NEAR YOU?**

A Joint Report from
Resource Media and
National Wildlife Federation

September 2013

“When we can’t go in, it becomes a lake you can only look at, but can’t touch. It’s our town’s economy. If you lose the lake you’re going to lose the economy.”

– Kim Straud, Spirit Lake, Iowa

“Because cyanobacteria affect drinking water sources in the U.S. and globally, there is real, increasing concern about the toxins they produce and the impacts they have on human, domestic pet and livestock health. Wildlife, fish and shellfish are affected too.”

– Hans Paerl, Professor of Marine and Environmental Sciences,
University of North Carolina

“There’s kids that swim in that part of the river. Everybody that goes up there, probably half of them have dogs. I’d hate for this to happen to a kid.”

– Jerry Benedick, whose dog Axel died hours after swimming in the Willamette River near Eugene, Oregon, said he didn’t see any warning signs of the bloom. ([KVAL News](#), July 2013.)

Cover Photo: Lily Pond, near Quinn’s Corners in Pike County, Pennsylvania
Courtesy of: [Nicholas Tonelli](#), Some rights reserved

Opposite: Tainter Lake, Wisconsin



CONTENTS

Introduction	1
Regional Impacts and Solutions	2
Health Impacts: Pets, People and Wildlife	4
Economic Impacts	8
Testing for Toxins	9
Farmers Key to the Solution	14
Policy Recommendations	16
Endnotes & Resources	19



Tainter Lake, Wisconsin. Algae blooms can create a stench.

INTRODUCTION

Summer: Time for Toxic Algae

Summer should be a time for fishing, boating and swimming with family on our nation's lakes.... Yet increasingly, it is also a time when the health threats posed by blue-green algae keep people out of the water. The green gunky stuff is strangling a growing number of inland U.S. waterways and releasing toxins that threaten the health of people, pets and wildlife. A new [online map](#) is the first attempt to show the scale and scope of reported freshwater harmful algal blooms (HABs) in 2013. It is a resource for communities to both report and track freshwater toxic algae outbreaks.

A familiar issue to Midwesterners and Great Lakes-area residents, the problem is spreading across the U.S. The same pollutants that create the annual Gulf of Mexico Dead Zone and coastal harmful algal spur freshwater toxic algae. Yet even though harmful algal blooms strike [all areas](#) of the United States, the issue continues to fly beneath the radar of national attention, because:

1. No federal agency currently tracks lake closures or health warnings nationally.
2. Few economic studies have assessed the national cost of freshwater HABs.
3. Not all states monitor or report the presence of algae-related toxins in freshwaters.

To provide more information on the scope of the problem, [Resource Media](#), a nonprofit communications firm, began tracking warnings and advisories in 2012 as they appeared in news reports and on state agency websites. It has developed the first national online map that shows the health warnings and advisories that have been issued over the summer of 2013. The website, [ToxicAlgaeNews.com](#), also includes a spreadsheet of locations and links to reporting sources. The map is a step in the right direction, but only displays reported outbreaks. Given the irregularities in state tracking and reporting, much more is needed to more accurately capture the true scale and scope of the problem, especially since freshwater toxic algae have been found in every mainland state.

Last summer, 20 states issued warnings as record drought and high temperatures baked the nation. This year, 21 states—some different than last year—have closed lake beaches and issued public health advisories for dangerous toxin levels. Yet in media coverage, freshwater HABs are still treated as a sporadic local concern, not a national water quality problem. Coverage rarely references the breadth of freshwater toxic algae outbreaks and their cumulative cost. A joint effort between Resource Media and the [National Wildlife Federation](#) is mobilizing citizens from Florida to the Great Lakes to call for more attention and support to restore our wetlands and streams. We must save our summers, our drinking water and the health of our cherished lakes and rivers.

REGIONAL IMPACTS AND SOLUTIONS

Summer 2013: Toxic Algae Across the U.S.

In the absence of a national monitoring and reporting standard, Resource Media has tracked state-issued health advisories on the interactive website ToxicAlgaeNews.com. From May 5 through September 16, 2013, 21 states had reported warnings at over 147 locations on lakes, ponds and rivers. Markers on the map indicate where health advisories have been posted.

The map provides a sense of how vast the problem is, but because not all states test for freshwater algal toxins, more comprehensive monitoring is needed.

For more information on each affected water body, refer to the interactive map on ToxicAlgaeNews.com.



1 **Oregon's** Midsummer Triathlon became a summer biathlon after Multnomah County officials closed Blue Lake due to toxic algae this August.

2 **California's** inland Pinto Lake near Watsonville has some of the nation's most toxic algae. In 2010, microcystin washed from it into the ocean and poisoned sea otters in the Monterey Bay. Researchers have found that toxins can live for some time in shellfish, posing new risks for human and wildlife.

3 Throughout the **Midwest, Great Plains, and Northeast**, the National Wildlife Federation is working with farmers to educate peers about how and why to use cover crops to boost soil health and farm productivity while improving water quality.

4 Wichita, **Kansas**, has spent several million dollars adding ozone treatment for the water it uses from Cheney Reservoir, where elevated levels of cyanobacteria are a regular occurrence.

5 In **Iowa**, heavy rains washed unusually high levels of nitrogen and phosphorus from farm fields and livestock pens into waters this spring and early summer, prompting toxic algae outbreaks.

6 Tainter Lake, **Wisconsin**, known for its mats of toxic algae, passed a local rule requiring all waterfront property, including agricultural lands, to maintain an unmowed 35-foot-wide buffer strip along the water's edge.

Toxic Algae Bloom reports as of September 16, 2013 For more updated information, visit ToxicAlgaeNews.com



- 7 Farmers in the Maumee Rivershed Basin of **Ohio** are collaborating with the USDA to research and hone best management practices on their farms that protect water quality.
- 8 For the first time, **Kentucky** officials found toxic algae this summer at four lakes which collectively draw more than 5 million people a year. Visitors to the lakes have complained of rashes and stomach problems.
- 9 Toxic algae has become a regular occurrence in **Lake Erie**, due primarily to agricultural runoff. Thick mats of algae have closed beaches, deterred fishing, and diminished outdoor recreation opportunities.

- 10 **New York** had 50 laboratory confirmed toxic algae warnings, an indication of how a strong monitoring system can reveal the true depth of the problem.
- 11 In southeast **Florida**, a massive toxic algae outbreak covered St. Lucie River and Indian River Lagoon with fluorescent green slime this summer, prompting warnings from health officials to not touch the water. Scores of dolphins, manatees, birds and fish have died, and thousands of residents have protested, calling for a statewide emergency management plan to stop the toxic slime.
- 12 A new USGS-funded project in **Alabama** is tracking toxic algae in 350-400 freshwater sites around the southeastern U.S. Most states in the region do not currently monitor HABs.

HEALTH IMPACTS: PETS, PEOPLE AND WILDLIFE

What is Toxic Algae?

Most algae are not harmful to humans, and green algae are essential parts of a healthy aquatic ecosystem. But toxic algae, including blue-green algae, are different. Despite the name, blue-green algae are actually made up of types of bacteria known as cyanobacteria that can produce toxins, including a group known as microcystins. The algal cells are usually too small to be seen, but sometimes can form visible colonies, called an algal bloom. These “blooms” can be various colors, including blue, bright green, brown, or red, and in some cases may look like paint floating on the water. Toxic algae outbreaks are becoming more common, affecting a growing number of freshwater sources. ¹

Where Does it Come From?

Fertilizer and manure runoff from agriculture, which is unregulated, has become the leading source of nutrients that freshwater algae thrive on nationwide. Failing septic systems in smaller rural communities, and residential lawn fertilizer (especially in lakeside neighborhoods), are also a significant contributor, and are largely not regulated either. Municipal and industrial wastewater also contribute, but those sources have declined because they are generally regulated under the Clean Water Act.

Will it Get Worse?

The increase in unregulated pollution is exacerbated by a changing climate.

“Global warming and intensification of major storms and droughts play major roles in the spread of toxic blue-green algal blooms worldwide,” says Hans Paerl, Professor of Marine and Environmental Sciences at University of North Carolina.

In the spring, high rainfall brings nutrients into lakes and waterways. If a drought follows, the flow of water slows and water volume decreases, yet the phosphorus and nitrogen remain. This increases the concentration of nutrients, and the water becomes stagnant and warm.

“It’s like you’re setting up a culture in a petri dish,” Paerl says. “You add the nutrients, close it off and heat it up. That’s cyanobacteria 101.”

Federal corn-ethanol policies that have spurred high corn prices and this year’s record planting of corn – causing two million acres of marginal, erosive former grasslands to be plowed under – are central to the problem. Corn is a notoriously “leaky” plant, which refers to its inability to use all the chemical fertilizer or manure that’s been applied to the land to boost growth. In addition, the timing of fertilizer application has changed. More farmers now apply fertilizer and liquefied manure after the fall harvest to prepare for the following growing season. With no crops to absorb nutrients, spring snowmelt and rains wash it into waterways.

Health Risks to People

Cyanobacteria can produce liver and nerve toxins and toxic chemicals affecting cells and the skin. In some cases, certain toxins can cause asthma-like symptoms, severe vomiting, diarrhea or irritated skin or eyes. At least one of the toxins has been classified as possibly carcinogenic by the International Agency for Research on Cancer. Children are most at risk.

Exposure can occur in a number of ways, including drinking water from a contaminated water body, drinking untreated water or taking part in activities like swimming or jet-skiing.² Unfortunately, algal blooms tend to concentrate in shallow areas of a pond or lake that are accessible to people and pets seeking relief from summer heat.

In 2010, Ohio confirmed seven toxin-caused illnesses from cyanobacteria in Grand Lake St. Marys, and at least 21 others possibly linked to lake exposure, including a case in which an individual was temporarily blinded. The only known human death occurred in Madison, Wisconsin in 2002, when a teenaged boy died after swimming in a golf course pond infested with blue-green algae. In 2011, U.S. Senator Jim Inhofe became ill by swimming in an algae-infested lake near his Oklahoma home.

"In the summer we have to keep all the windows closed or leave town because of the toxic fumes coming off the lake."

- Peg McAloon, resident, Tainter Lake, Wisconsin



Toxic blue-green algae plagues a Wisconsin lake. Regular blooms hurt tourism and property values and are changing many family traditions.

Avoiding Exposure to Blue-green Algae

HABs may occur and not result in official warnings. If you see suspicious algae blooms or surface scum that is green, blue, or white, looks like foam or paint, remember: When in doubt, stay out.

The NY State Dept. of Health also advises:

- Never drink untreated surface water, whether or not algae blooms are present.
- If washing dishes in untreated surface water is unavoidable, rinsing with bottled water may reduce possible residues.
- Stop using the water and seek medical attention if symptoms such as skin, eye or throat irritation, allergic reactions or breathing difficulties occur while in contact with untreated surface waters.

Dogs in Danger

Toxins produced by blue-green algae can be lethal to pets—especially dogs. According to the [Vermont Veterinary Medical Association](#), cyanobacteria produce some of the most powerful natural poisons known. Animal and pet fatalities are not monitored nationally, but a scan of news reports shows at least 27 confirmed dog deaths since 2001, which is likely only a fraction of the number of animals that die a painful death every year.



Water-loving dogs are at especially high risk of exposure to toxic algae. Dogs can be exposed through drinking tainted water, eating clumps of algae or licking fur after being exposed to tainted water. Toxic algae poisoning is often fatal to dogs.

Dogs usually become sickened or poisoned by swallowing water that has blue-green algae or toxins in it or by eating the algae itself. They can even ingest the toxins by licking algae from their fur as they clean themselves after leaving an affected lake or pond. Some are attracted to the smell, says Deon van der Merwe, with the Kansas State University Veterinary Diagnostic Laboratory. "When wind blows the scum to the end of a lake or pond and it starts to get stinky and rotten, some dogs will seek out and ingest it."

Keeping Dogs Safe

Prevention is essential, since most dogs won't survive exposure to toxic algae, says Deon van der Merwe, Kansas State University Veterinary Diagnostic Laboratory. Experts recommend owners watch for beach postings and water quality notices before swimming or allowing your dog to play in the water.

Don't let a dog drink or swim in water if:

- It appears slimy or looks like foam, scum or mats on the surface of the water.
- The color is weird. Harmful algal blooms can be blue, bright green, brown or red and may look like paint floating on the water.
- It stinks. Some (but not all) harmful algae produce a nauseating smell.

If a dog has been exposed:

- Rinse the animal off immediately. Wear gloves to be safe and use clean, fresh water.
- Watch for symptoms. Take pets to the vet immediately if they suffer from diarrhea or vomiting, weakness or staggering, or drooling, difficulty breathing or convulsions.
- Report the incident to the state health department.

—Source, [Environmental Protection Agency](#)

Fish and Wildlife in Trouble

Fish and certain wildlife such as waterbirds are at risk. Toxic algae has killed brown pelicans in the Gulf of California and bald eagles in southeastern Florida. Research studies illustrate the harmful impacts of toxic algae on fish and wildlife, including:

- Deaths of sea otters in California were linked to shellfish that contained toxins originating in freshwater algae that were carried to the coast.³
- Deaths of other birds, including grebes and ducks, have been associated with toxic algae outbreaks in many locations around the world.⁴
- Algal toxins can affect the development, growth, and survival of exposed fish.⁵

The breakdown of algae can lead to oxygen depletion in bottom waters that can be deadly for fish. This happens every summer in Ohio's Grand Lake St. Marys. This year, several hundred fish including gizzard shad, bluegill and crappie were found floating in the lake's shoreline channels.



Toxic algae can be deadly to fish and wildlife, including bald eagles.



Dead fish resulting from toxins or oxygen depletion in Lake Binder, Iowa.

Florida Success Story: Fish and Fishermen Return

The story of Florida's Oklawaha Chain of Lakes, though still unfolding, exposes the high costs of pollution and the wisdom of investing in restoring waterways that are choked with harmful algal blooms. Beginning in the late 19th century, canal dredging and wetlands drainage projects changed the lakes' hydrology, caused extensive sedimentation and kicked off decades of nutrient pollution. The lakes' fisheries showed remarkable resilience, and remained a popular destination, home to the nation's most lucrative bass tournaments. But in the 1970s, algae choked the lakes, and the last fishing camp closed.

In 1985, a massive restoration of the Oklawaha Chain of Lakes began, thanks to state legislative leadership. State agencies set limits on how much phosphorus went into the lakes. Wetlands were restored on the site of former farmland to filter water and remove excessive nutrients. Thanks to these and other efforts, most areas in the lakes support thriving, healthy aquatic vegetation, and tremendous bass and panfish fisheries. The success story is so powerful that B.A.S.S., the nation's largest fishing organization that was founded in large part in the 1970s to fight pollution, brought its Elite Series tour back to the Oklawaha Lakes. The pros are still raving about that tournament. Meanwhile, real estate values in the area have risen and outdoor-related tourism thrives.

ECONOMIC IMPACTS

The Cost of Toxic Algae

As toxic algae outbreaks shut down beaches and sections of lakes across the United States during prime summer months, local communities watch helplessly as tourists, anglers and boaters take their families and their dollars elsewhere. Tourism traffic dries up and property values fall. In addition, cities grapple with increased water treatment costs and increased monitoring and maintenance costs.

“I’ve been told by several people, ‘Frank, we love your place but we’re not going to allow our children in the water, so we’re not going to be back.’”

– *Frank Rybeck, resort owner, Lake Kegonsa, Wisconsin*

The impact of freshwater toxic algae is just one small component of the bigger problem of excess algae overall that includes loss in water clarity, decline in water quality and decline in recreation enjoyment due to excessive algal growth. A 2009 report estimated the annual costs of eutrophication—the over-enrichment by nutrients such as nitrogen and phosphorus—in fresh water bodies across the U.S. at \$2.2 billion.⁶ If toxic algae represent just five percent of these impacts, the annual loss would reach over \$100 million annually.



Algae invading Grand Lake St. Marys' channels.

However, Lake Erie offers an idea of how far toxic algae's impacts could extend. There, runoff from intensive agriculture and some point sources has spurred algae growth and a dead zone on the bottom of the lake's central basin, reducing fish habitat, and scaring off recreational users. [Local leaders](#) say algae could paralyze tourism and recreation in eight northern Ohio counties accounting for \$11.5 billion of the state's economy.

Looking to the coasts, the costs of toxic red tides in marine waters have been more extensively studied and estimated at nearly \$82 million annually.⁷ That figure includes \$38 million in commercial fisheries losses, \$37 million in public health costs, \$4 million in recreation and tourism impacts and \$3 million in coastal monitoring and management.

TESTING FOR TOXINS

A Haphazard, State-by-State Approach

States often walk a fine line between providing information to keep people safe, and scaring off potential visitors to a lake or river. In a review of news clips over the summer of 2013, Resource Media noted that news coverage frequently highlighted that recreation users were not aware of the problem. If lake visitors happen to miss a posted health advisory, the water's appearance may not warn them away. That's because toxic algae can be visible one day, and not visible the next, while toxins can linger. Also, the toxic algae itself may be difficult to differentiate from beneficial green algae.



[Algal bloom](#) forming a thick surface layer in Lake Dora, Florida.

With the exception of Lake Erie, where NOAA conducts monitoring, [no federal agency](#) systematically addresses the nation's freshwater systems that are impacted by toxic algae. Under the Harmful Algal Bloom and Hypoxia Research and Control Act, which is up for reauthorization, NOAA is monitoring and predicting freshwater HABs in [Lake Erie](#), but otherwise focuses on coastal marine occurrences.

Therefore, it is up to states or municipalities to test for toxic algae on their own and to determine how to share that information with the public. Many states that do have programs only regularly monitor the largest and most popular lakes and only test other waters after being alerted by the public. For example, trained volunteers test the waters on Lake Champlain, which has battled toxic algae for years and whose monitoring and reporting duties are shared by several states. Only 23 states appear to provide information to residents about toxic algae—for a list see this [EPA page](#).

[Oregon](#), [Ohio](#) and [New York](#) offer extensive online reporting of toxic algae, as does California's [Klamath Basin Monitoring Project](#). They host websites with maps, but the information presented and ease of locating warnings and past outbreaks differs – showing once again the need for national standards. A look at Lake Erie illustrates more discrepancies in state-based reporting. In September, 2013, Ohio issued a [drinking water](#) and [health advisory](#) during a toxic algal bloom in western Lake Erie. In contrast, the state of Michigan, which shares the same waters but does not currently have a formal monitoring or advisory program, issued no health advisories during that same time period.

New York State: Robust monitoring

Though New York state has the highest number of toxic algae warnings posted this summer, it doesn't mean that it has the nation's highest amount of toxic algae, said Greg Boyer, Director of the Great Lakes Research Consortium at State University of New York. It's that the state has good monitoring. In the last few years, the state of New York has increased its monitoring, activating its network of citizen water quality monitors that are spread across 250 lakes.

In other states with agricultural runoff such as North Carolina that don't appear on the map, "their problem with toxic blue green algae is likely just as bad or worse than New York's problem," Boyer said. "But you don't hear about it because they don't have the same level of monitoring programs."



Indigenous tribes that live along the Klamath River and depend on salmon for food have led monitoring for toxic algae in California.

California: "A Sleeping Green Giant"

In California, few waterbodies are regularly monitored for toxic algae. A notable exception is the Klamath Basin Monitoring Project near the Oregon border, where indigenous tribes that depend on salmon and mussels first blew the whistle on frequent and severe algae blooms along their river and in the Klamath reservoirs. There, microcystin levels have been recorded far above [World Health Organization \(WHO\)](#) health standards.

"The river is their connection to their way of life," said Crystal Bowman, director of water quality for the Karuk tribe. "If the river's sick, they'll be sick." Studies of Klamath salmon have found that algal toxins accumulate in the liver, said Bowman, posing bioaccumulation risks for salmon and salmon eaters.

Further south, permanent signs around Pinto Lake near Monterey warn users not to drink the water, eat the fish or allow pets in the water due to microcystin levels that are among the highest recorded nationwide.

"One of the reasons we know about the levels is that Pinto Lake has been studied – unlike so many other locations in the state and country that likely have toxic algae," said scientist Robert Ketley, Senior Utilities Engineer with the city of Watsonville. "The problem is a sleeping green giant."

Toxic Algae Reports by State

COUNT	STATE
50	New York*
18	Kansas
12	Washington
10	Iowa
10	Ohio
9	Oregon
6	California
4	Kentucky
4	Nebraska
4	Wisconsin
3	Indiana
3	Massachusetts
3	Maryland
2	Florida
2	New Hampshire
2	Rhode Island
1	Idaho
1	Montana
1	Oklahoma
1	Vermont
147	TOTAL

*[New York State](#) reports on both visual and laboratory-confirmed toxic algae blooms. This number reflects only laboratory-confirmed blooms. New York's program shows how a strong monitoring system can reveal the breadth of toxic algae occurrences.

The table to the left shows the count of water bodies/ beaches with toxic algae reports issued by state or federal agencies or reported in local news outlets between May 5 and September 16, 2013. The reports have been tracked by Resource Media and posted on the interactive website ToxicAlgaeNews.com, where more information on the tracking methodology can be found.

Since only state-based reports have been tracked, the chart should not imply that toxic algae does not occur in states not on this list.

Southeast

Alan Wilson, an associate professor at Auburn University in Alabama, is working with state agencies, academics and other researchers to monitor 350-400 freshwater sites in the southeast and eastern United States in a U.S. Geological Survey-funded project. The end goal is a database on regional cyanobacteria blooms and toxins.

Wilson's lab has documented scores of toxic algae blooms over the last two summers.

"Many cash-strapped southeastern state agencies don't have resources to test the water or issue warnings," he said. "Those that do test may set very high toxicity thresholds, and therefore don't issue warnings. The concentration of what some agencies say is dangerous is well over what I'd want to send my kids into."

Snapshot: State Monitoring Efforts in the Southeast

Accurately tracking harmful algal blooms (HABs) in the US can be challenging because of the disparity among state monitoring programs. First, does a state monitor? If so, how robust are those efforts? And, does a state notify the public about toxic algae? The answers can differ significantly across state boundaries.

A brief survey of monitoring efforts in just one region of the United States—the Southeast—demonstrates how efforts can vary state-by-state.



A piecemeal approach: The degree to which states monitor for toxic algae varies greatly across state boundaries. A survey of Southeastern states underscores how monitoring efforts can vary state-by-state.

Alabama

There is no formal harmful algal bloom monitoring and reporting program in Alabama, and no publicly available information on where harmful algal bloom events have occurred. The state has reported impairments of a number of water bodies due to excessive nutrient levels, including on the Department of Environmental Management's most recent impaired waters list.

Florida

Florida coordinates the efforts of its Department of Health, Department of Environmental Protection, Fish and Wildlife Conservation Commission and water management districts. Florida districts with past toxic algae will routinely test for toxicity and investigate reports of blooms or fish kills. Information is shared with other agencies and local county health units, which may then issue a public advisory. Florida does not keep a public database of advisories or closures, although this information can be obtained by contacting the relevant agencies.

Georgia

Georgia focuses its resources on coastal blooms such as red tides. It has a response plan that provides information on cyanobacterial blooms, but does not have any formal monitoring or reporting program. If local health agencies receive a complaint of a freshwater bloom or scum, they will determine if there is a threat to public health. Georgia does not post a public database of harmful algal bloom advisories or closures.

Kentucky

The Kentucky Department of Environmental Protection does not monitor harmful algal blooms, though it does coordinate with the U.S. Army Corps of Engineers in development of advisories covering water bodies under Corps control.

Mississippi

Mississippi has no formal HAB monitoring and reporting program, though its Department of Environmental Quality staff do respond to requests from individuals about potential blooms, including sampling and analysis as needed. If a harmful algal bloom is confirmed (typically involving small private water bodies on farms), the agency notifies the individual making the contact, but does not issue a public advisory.

North Carolina

The North Carolina Department of Environment and Natural Resources (DENR) previously conducted regular monitoring for harmful algal blooms with funding from the Centers for Disease Control and Prevention (CDC). Since this funding ended, DENR now relies on reports of blooms or fish kills, which they investigate.

If toxicity is determined (using WHO guidelines), DENR may issue a public health advisory. DENR also shares its information with local health agencies, which have the jurisdiction to close a water body to public recreation. It does not post a public database of advisories or closures.

South Carolina

South Carolina does not have a formal harmful algal bloom monitoring and reporting program, though the state is supporting research. For example, the South Carolina Algal Ecology Laboratory involves a partnership between the University of South Carolina's Belle Baruch Institute and the Marine Resources Division of the South Carolina Department of Natural Resources. The laboratory is researching factors that create toxic algae blooms, their impacts and management actions.

Tennessee

The Tennessee Department of Environment and Conservation does not regularly monitor for harmful algal blooms. They will investigate complaints of blooms or sickness, and issue an advisory should conditions be found toxic.

Virginia

A cooperative effort by the Virginia Department of Health and Department of Environmental Quality has led to the Harmful Algal Bloom Task Force in Virginia. While the Task Force primarily focuses on coastal blooms such as red tides, they have been trying to establish baseline values for cyanobacterial cells at several lakes to determine if there are any sites that require routine monitoring. If toxicity is detected they will issue an advisory to the public and the media. In some cases, they will close the lake to public recreation.

Grand Lake St. Marys: "This Used to Be A Popular Boating and Fishing Lake"

Grand Lake St. Marys in Ohio, a 13,500-acre reservoir, has drawn local visitors to recreate and relax. Since 2009, toxic algae have carpeted areas of the shallow lake surface from May through October, due mostly to a high concentration of runoff from hog and poultry operations nearby and failing home septic systems. The state has spent more than **\$8 million** fighting algae at the lake alone, including on two chemical treatments to starve the algae by removing phosphorus from the water.



A jet ski churns up thick blue-green algae (toxin-producing cyanobacteria) on Grand Lake St. Marys.

In addition, the Grand Lake St. Marys Lake Improvement Association estimates that toxic algae and public health advisories caused local business revenue to decline 35–40 percent annually due to slow tourism seasons—up to \$80 million total. "This used to be a popular boating and fishing lake but many people won't vacation here anymore," says Deb Borns, a realtor and lifelong resident of Celina, Ohio. "If I went out on the lake today, I'd see 10 percent of the boats I used to see. The economy has improved. Real estate values and interest in our lake has not."

The other costs are immeasurable. An Ohio man, Danny Jenkins, was hospitalized and temporarily paralyzed in 2011 after he rinsed algae scum off of his dog, Casey, after it swam in the lake. The dog later died.

FARMERS KEY TO THE SOLUTION

Some farmers are working with their conservation districts and state programs to help solve the vexing challenge of freshwater toxic algae. Still, there is a long way to go before the majority of U.S. farmers improve fertilizer timing and reduce the amount they apply. Growing cover crops (see sidebar, "Don't Farm Naked") helps keep nutrients in the soil when both are most at risk of being washed away in storms. They also can produce bountiful yields amid drought and other extreme weather. Though the use of cover crops is growing, adoption is still rare—just three percent to seven percent of farms use them, according to the USDA.

Wetlands and streamside buffers also keep nutrients out of the water. The Conservation Stewardship Program, the Wetlands Reserve Program and other Farm Bill programs pay farmers to protect the environment by using cover crops, maintaining wetlands and planting streamside buffers and other techniques to control runoff. Yet the Farm Bill remains in limbo, and current proposals include harsh austerity cuts to conservation programs.

"Don't Farm Naked": Why Cover Crops Work

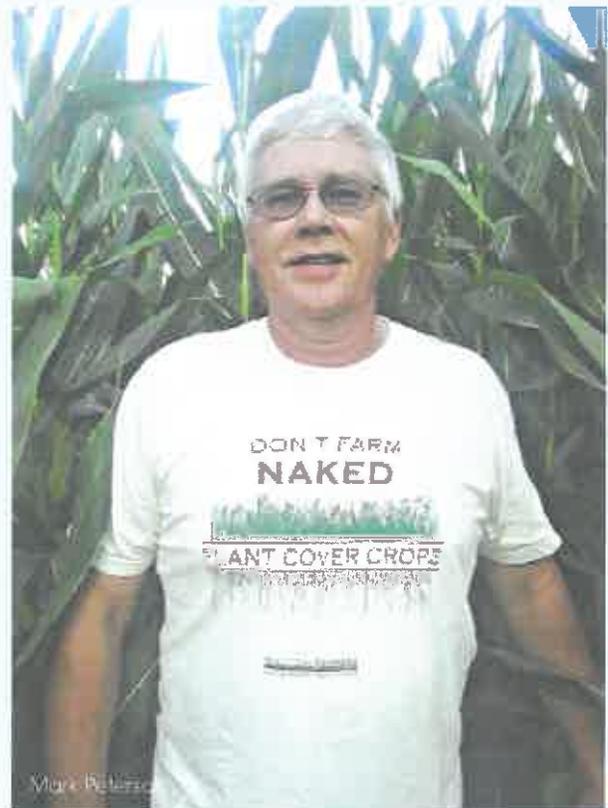
Farmers like Mark Peterson, who grows corn, soybeans and cereal rye near Stanton, Iowa, are taking voluntary steps to keep fertilizer on the farm by using cover crops, buffer strips, and more timely fertilizer application. "If we keep our nutrients on the farm," he says, "they don't go down the river, polluting Iowa's water and increasing the dead zone in the Gulf."

"One of the most effective things I do is use cover crops to soak up nutrients that move with any rainfall," he says. "I aerial seed cereal rye before harvest so that it is already sprouted and growing by the time harvest is over. That way there is always something growing in the field which helps protect the soil and scavenge nutrients. This also will help build up organic matter over time."

"I'm not alone in this practice – more and more farmers are shifting to a spring fertilizer application, along with planting cover crops. Why? It's good for the farm. We like to say, 'Don't farm naked!' Cover crops prevent the land from staying bare over the wintertime. They prevent soil erosion, keep the nutrients in the soil and improve soil health."

"It is time for the government to put its money where its mouth is and provide funding for conservation education that will improve soil and water quality. We should also link conservation compliance to crop insurance. Farmers are getting a big subsidy on our crop insurance, and in exchange we must take care of our soil and water not only for ourselves, but for the future generations. Melanie and I have five sons and two grandchildren—so far. I want to leave, for them, the farm and the environment in even better shape than what we started with."

– Mark Peterson, Stanton, Iowa



Farmer and cover crop champion Mark Peterson.

"It is time for the government to put its money where its mouth is and provide funding for conservation education that will improve soil and water quality."

– Mark Peterson

POLICY RECOMMENDATIONS

Americans treasure our blue lakes, the fish and wildlife that depend on them, and the summers on our inland shores. Given the threats that freshwater toxic algae pose to our drinking water, health and economy, we need concerted state and federal action to reduce pollutants and curb the spread. We need standardized state monitoring and reporting of health advisories, and more research on the cost of toxic algae. Toward this end, the National Wildlife Federation is calling for the following solutions.

Solution 1:

Restore And Strengthen Clean Water And Watershed Restoration Funding

Clean water programs provide critical funding for [sewage treatment](#) upgrades, regional ecosystem restoration efforts, wetlands and stream restoration and other [watershed cleanup](#) efforts. But as Congress prepares to debate 2014 funding this September, the [House Appropriations Committee](#) is proposing significant cuts to critical programs.

Solution 2:

Support Wetland And Stream Protection Programs

In addition to the CWA, federal and state-funded wetland and stream conservation and restoration projects that are strategically targeted can reduce nutrient pollution and toxic algal blooms. For example, fertilizer runoff to Florida's nutrient-laden Lake Okeechobee should be reduced through nutrient retention on the farms and in the Lake's watershed. Restoration projects like the [Central Everglades Planning Project](#) should be supported to remove pollution that is now being channeled out of the Lake and into the St. Lucie and Caloosahatchee estuaries on Florida's East and West coasts.

Solution 3:

Adopt Water Pollution Limits

The Clean Water Act requires polluters to meet water quality standards. EPA must do more to actively engage State and Tribal governments in adopting and enforcing protective limits on phosphorus and nitrogen pollution discharges in all states.

- EPA and the State of Florida must strengthen [Florida's numeric nutrient standards](#), which can greatly reduce the amount of phosphorus and nitrogen discharged into Florida waters.
- EPA should establish nutrient reduction [clean up plans](#) for areas plagued with toxic algae blooms such as Lake Erie's western basin. EPA should also continue its active engagement with the [Chesapeake Bay](#) states to reduce sediment and nutrient pollution.

Solution 4:

Pass a 5-year Farm Bill That Promotes Healthy Soils and Reduces Agricultural Runoff

Soil and wetland conservation programs in the Farm Bill foster the use of cover crops and restored wetlands that reduce toxic algal blooms. Yet Congress' inability to pass a 5-year Farm Bill jeopardizes basic conservation compliance and funding for popular USDA programs. [We need a Farm Bill that:](#)

- Makes basic soil, water and wetland conservation practices a requirement for taxpayer-subsidized crop insurance. Without these requirements, taxpayers will be underwriting practices that spur toxic algae outbreaks.
- Maintains soil and wetland conservation funding. Programs should be supported to promote more efficient use of chemical fertilizer, the strategic use of cover crops, manure management on livestock operations and the conservation and restoration of wetland and riparian buffers.
- Includes a Great Waters Regional [Conservation Partnership Program](#) that consolidates several existing conservation programs. This program will fund restoration projects that will store water flows, reduce soil erosion and filter phosphorus and nitrogen pollution in significant watersheds across the country.

Solution 5:

Reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act

Congress should support [HABHRCA](#) and authorize funding for expanded research on causes, impacts and costs of toxic algae blooms. It should also include increased monitoring (including facilitating more systematic and uniform monitoring by states and other agencies, in support of some type of federal tracking system), and increased implementation of nutrient reduction and other programs to address the problem.



Thousands have rallied this summer in Florida for state action to reduce pollutants that are spurring toxic algae in the St. Lucie river.

"I Fish and I Vote"

"More than half a century has past since I first wet a line in Florida waters, near where I grew up in Miami. When I think about the most serious problems plaguing the places where I've lived and visited the most, they are algae blooms fueled by nutrient pollution. I've watched algae blooms kill vast areas of seagrass meadows in Florida Bay. I've watched Lake Okeechobee—America's bass-fishing mecca—turn bright green except for the silver dead fish floating in it. And most painfully, I've watched the waters I call home, the waters of the St. Lucie River and Indian River Lagoon, where I make my living as a fishing magazine publisher and guide, turn green again and again.

"This time, the pollution is worse than anyone can remember. Right now, almost two billion gallons of nutrient-laden runoff are spilling into this estuary, which is one of the most if not the most biologically diverse estuarine ecosystems in North America.

"We have lost our seagrasses and shellfish. The forage fish, crustaceans and juvenile predators that depend upon those habitats are now without a home. We are losing generations of wildlife that sustain our quality of life and economy here on Florida's Treasure Coast and in the Gulf Coast's Caloosahatchee Watershed, where they are receiving even more dirty water. Meanwhile, we must abide here by the no-contact signs—health warnings about even touching the water. The waters themselves are matted with blue-green algae and teem with infectious bacteria. Like most of the fishing guides here, I've lost all my summer business and that is business we likely won't get back until this pollution stops and the ecosystem – and recreational economy is restored."

– Capt. Mike Conner, *Fishing Guide, South Florida*



"I've lost all my summer business and that is business we likely won't get back until this pollution stops."

– Capt. Mike Conner

ENDNOTES

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RESOURCES

Go to [ToxicAlgaeNews.com](#) for a full list of resources.

Also see:

- [EPA Nutrient Pollution and Harmful Algal Blooms](#)
- [Centers for Disease Control](#)
- [NOAA, Harmful Algal Bloom Related Links](#)
- [U.S. Geological Survey Real Time Water Quality](#)

Reporting:

- If you know of a freshwater toxic algae bloom not reported on the map, you can submit a report via: [ToxicAlgaeNews.com/report.php](#)
- If you encounter a freshwater toxic algae bloom, we encourage you to photograph the conditions and share your photos via Flickr, tagging the photo as toxic algae. Also post your photos on Twitter, using the hashtag #toxicalgae.

[Follow #ToxicAlgae on Twitter](#)

This report was researched and written by Penelope Whitney and Gregory Heller of Resource Media, and Dr. Michael Murray, Jan Goldman-Carter, Glenn Watkins, and Andrew Whelan of National Wildlife Federation.

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