
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: AB 440
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Version: 3/24/2021
Urgency: No
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Hearing Date: 6/14/2021
Fiscal: Yes

SUBJECT: Bear Lake Reservoir: recreational use

DIGEST: Deletes the sunset on the bodily contact prohibition exemption for Bear Lake Reservoir, and deletes other bodily contact restrictions, thus authorizing, if specified conditions are met, bodily contact with the water at Bear Lake Reservoir to occur all year and in perpetuity.

ANALYSIS:

Existing law:

- 1) Establishes as state policy that all public waters should be used for multiple purposes, to the extent that the uses are consistent with public health and public safety. (Health and Safety Code (HSC) § 115825 (a))
- 2) Prohibits recreational uses in which the participant has bodily contact with water in a reservoir in which water is stored for domestic use, except as provided in statute for specified reservoirs and under specified conditions. (HSC § 115825 (b))
- 3) Prohibits bodily contact with the water in Bear Lake Reservoir, unless all of the following conditions, among others, are satisfied:
 - a) The water subsequently receives, as specified, complete water treatment, in compliance with all applicable State Water Resources Control Board (State Water Board) regulations, including oxidation, filtration, and disinfection, before being used for domestic purposes;
 - b) The Lake Alpine Water Company conducts a monitoring program for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform, at the reservoir intake and at post treatment at a frequency determined by the State Water Board, but no less than three times during the period when bodily contact is allowed;
 - c) The reservoir is operated in compliance with regulations of the State Water Board; and,

- d) Bodily contact is allowed for no more than four months each year. (HSC § 115843.6 (a))
- 4) Provides that the recreational use of Bear Lake Reservoir shall be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir, or required by the State Water Board, that are required to further protect or enhance the public health and safety and do not conflict with the regulations of the State Water Board. (HSC § 115843.6 (b))
- 5) Requires the Lake Alpine Water Company to file, on or before December 31, 2017, and biennially thereafter, with the Legislature, a report, as specified, on the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir. (HSC § 115843.6 (c))
- 6) Requires the State Water Board to, at the end of each recreational season, annually review monitoring and reporting data from Bear Lake Reservoir to ensure full compliance. (HSC § 115843.6 (e)(1))
- 7) Provides that if at any time the State Water Board finds a failure to comply with monitoring, treatment, or reporting requirements, the bodily contact restriction exemption shall cease immediately, and a permit issued to the Lake Alpine Water Company pursuant to California Safe Drinking Water Act may be subject to suspension, amendment, or revocation. (HSC § 115843.6 (e)(2))
- 8) Provides that failure of the Lake Alpine Water Company to comply with the bodily contact exemption requirements shall be deemed a violation of the California Safe Drinking Water Act and shall be subject to any applicable fines, penalties, or other enforcement action provided under that Act. (HSC § 115843.6 (e)(2))
- 9) Sunsets the bodily contact exemption for Bear Lake Reservoir on January 1, 2022. (HSC § 115843.6 (g))
- 10) Authorizes body contact sports in reservoirs constructed and operated as part of the State Water Project, other than terminal reservoirs from which water is supplied for domestic use without purification treatment after withdrawal from such reservoirs, to the extent that it is compatible with public health and safety requirements. (Water Code § 12944.(a))

This bill:

- 1) Deletes the requirement that, for bodily contact to occur at Bear Lake Reservoir, the Lake Alpine Water Company conduct monitoring for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform, at the reservoir intake and at post treatment no less than three times during the four month period when bodily contact is allowed, thus reverting monitoring requirements to be at a frequency determined by the State Water Board.
- 2) Deletes the four month per year bodily contact restriction at Bear Lake Reservoir.
- 3) Deletes the January 1, 2022, sunset on the bodily contact exemption for Bear Lake Reservoir.

Background

- 1) *Bodily contact with water in California reservoirs:* The California Health and Safety Code (HSC) establishes as state policy that all public waters are to be used for multiple purposes, as long as the uses are consistent with public health and safety. To this end, HSC prohibits recreational uses in which the participant has bodily contact with water in a reservoir in which water is stored for domestic use. Bodily contact with domestic water supplies can be a source of fecal pathogens and other contaminants that, if not treated, can be a serious threat to public health. The HSC does provide exemptions from this bodily contact prohibition, however, for all reservoirs in San Diego County, the Nacimiento Reservoir, the Modesto Reservoir, the Sly Park Reservoir, the Canyon Lake Reservoir, and the Bear Lake Reservoir. In each of these cases, statute delineates health and safety requirements, including monitoring and treatment requirements, which must be met in order for the exemption to stay in effect. California Water Code makes an additional exemption for bodily contact with water in reservoirs constructed and operated as part of the State Water Project, to the extent that the recreation is compatible with public health and safety requirements.
- 2) *Lake Alpine Water Company:* Lake Alpine Water Company is a privately owned water utility serving Bear Valley in Alpine County. Lake Alpine Water Company serves nearly 300 single family homes, 20 businesses, and 179 condominium units. Lake Alpine Water Company is regulated by the California Public Utilities Commission and the State Water Board. The water source for Lake Alpine Water Company is the Bear Lake Reservoir, contained by an earthen dam in the town of Bear Valley. All water is obtained from springs and snow melt into Bear Lake.

- 3) *Bear Lake Reservoir*: According to Lake Alpine Water Company, Bear Lake is a private thirteen-acre lake surrounded by a lodge pole pine and white fir forest and residential homes in the unincorporated community of Bear Valley in Alpine County. Access to the lake is provided by three small sandy beaches. All other shoreline is private property or earthen dam. The lake is frozen or snowed over from mid-November through mid-May. The weather allows for recreational use of the lake from June through September. The lake is posted as private and is used only by the members and guests of Bear Valley Residents Incorporated. Uses of the lake include wading, swimming, sailing, windsurfing, paddling, and fishing. Dogs and other pets are not allowed in the lake or at any of the access points. No motorized watercrafts of any kind are allowed in the lake.

The Lake Alpine Water Company reports that the number of visitors to Bear Lake Reservoir is weather dependent. There can be little to no use until June 15. During July and August, attendance averages 70 people per day with peak use of 130 people per day. Use tapers off again after August 15 and, due to water temperature, attendance typically drops to zero after September 15.

- 4) *Bodily contact recreation in Bear Lake Reservoir*: The HSC prohibits bodily contact with the water in Bear Lake Reservoir, unless all of the following conditions, among others, are satisfied:
- a) The water subsequently receives, as specified, complete water treatment, in compliance with all applicable State Water Board regulations, including oxidation, filtration, and disinfection, before being used for domestic purposes;
 - b) The Lake Alpine Water Company conducts a monitoring program for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform, at the reservoir intake and at post treatment at a frequency determined by the State Water Board, but no less than three times during the period when bodily contact is allowed;
 - c) The reservoir is operated in compliance with regulations of the State Water Board; and,
 - d) Bodily contact is allowed for no more than four months each year.

The Lake Alpine Water Company monitors Bear Lake Reservoir watershed for coliform, fecal coliform, E. coli, giardia, and cryptosporidium and provides a biennial report to the Legislature on the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir.

In its most recent report, released in 2019, the Lake Alpine Water Company noted that Bear Lake Reservoir samples for coliform increased from 2017-2019,

but determined that the increase is associated with an increase in the dissolved oxygen level of the hypolimnetic layer. Oxygen is concentrated onshore and pumped into the bottom of the lake through an array of diffusion hoses. By increasing the dissolved oxygen levels in the hypolimnetic layer, the water treatment operators were able to decrease iron and manganese concentrations, therefore improving water quality. The Lake Alpine Water Company maintains that despite the higher total coliform levels, counts for both fecal coliform and E. coli levels decreased. They noted that all lake samples tested negative for both giardia and cryptosporidium.

- 5) *Water quality issues related to bodily contact at Bear Lake Reservoir:* The State Water Board indicates that it has not identified any specific water quality issues related to bodily contact at Bear Lake Reservoir that would raise concern, and, given the relatively limited number of users at Bear Lake Reservoir, they do not anticipate a high likelihood of violations or concerns in the future. However, should the State Water Board find a failure to comply with monitoring, treatment, or reporting requirements, the bodily contact restriction exemption shall cease immediately, and a permit issued to the Lake Alpine Water Company pursuant to California Safe Drinking Water Act may be subject to suspension, amendment, or revocation.

Comments

- 1) *Purpose of Bill.* According to the author, "Residents of Bear Valley enjoy spending their summers in Bear Lake Reservoir, and Lake Alpine Water Company has shown that they can treat the water to account for human bodily contact. The current use exemptions expire next year, so we should extend them to allow the community to continue to enjoy the lake."
- 2) *This bill.* AB 440 deletes the sunset on the bodily contact exemption for Bear Lake Reservoir, the four month bodily contact restriction, and the frequency by which the Lake Alpine Water Company must monitor the water during the four month period in which bodily contact is currently allowed, thus authorizing, if specified conditions are met, bodily contact with the water at Bear Lake Reservoir to occur all year and in perpetuity. The State Water Board's regulatory authority over the reservoir remains intact.

Related/Prior Legislation

SB 930 (Gaines, Chapter 149, Statutes of 2016). Extended the sunset on the bodily contact exemption for Bear Lake Reservoir until January 1, 2022, and required the Lake Alpine Water Company to file a biennial report file with the Legislature on

the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir.

SB 14 (Gaines, Chapter 172, Statutes of 2013). Authorized, until January 1, 2017, recreational uses at Bear Lake Reservoir, if certain conditions are met, including water treatment, monitoring, and reporting requirements.

SB 1063 (Gaines, 2012). Would have authorized, until January 1, 2016, recreational uses at Bear Lake Reservoir if certain conditions are met, including water treatment, monitoring, and reporting requirements. SB 1063 was vetoed by Governor Brown.

AB 1934 (Leslie, Chapter 374, Statutes of 2004). Authorizes recreational uses, until January 1, 2007, at Bear Lake Reservoir if certain conditions are met.

SOURCE: Lake Alpine Water

SUPPORT:

OPPOSITION:

None received

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