

CF/42-0.19-9 SWRCB Order Approving Temporary Urgency Change in Permits 12947A, 12949, 12950 & 16596 for 2017 (ID 6741)

April 19, 2017

Les Grober, Deputy Director of Water Rights State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000

RE: Petition for Temporary Urgency Change—Permits 12947A, 12949, 12950, and 16596

Dear Mr. Grober:

Enclosed is a Petition for Temporary Urgency Change to modify the minimum instream flow requirements for the Russian River as established by Decision 1610 for Permits 12947A, 12949, 12950 and 16596. Accompanying the petition are the following:

- 1) Supplement to the April 2017 Temporary Urgency Change Petition
- 2) Environmental Information for Petitions
- 3) Notice of Exemption
- 4) California Department of Fish and Wildlife Review Fee Payment
- 5) State Water Resources Control Board Petition Fee Payment

The petition is being submitted as required by the Russian River Biological Opinion issued by NOAA National Marine Fisheries Service in September 2008. I look forward to working with the Division of Water Rights staff on this important conservation effort.

Sincerely

C:

Grant Davis
General Manager

G. Brown - State Water Resources Control Board

R. Coey, J. Fuller – National Marine Fisheries Service

E. Larson - California Department of Fish & Wildlife

P. Jeane, D. Seymour, T. Schram, J. Martini Lamb, J. Jasperse – Sonoma County Water Agency

C. O'Donnell - Sonoma County Counsel

A. Lilly - Bartkiewicz, Kronick & Shanahan

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Sonoma / Mendo.

MAIL FORM AND ATTACHMENTS TO: State Water Resources Control Board DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000

Tel: (916) 341-5300 Fax: (916) 341-5400 http://www.waterboards.ca.gov/waterrights

PETITION FOR CHANGE

Separate petitions are required for each water right. Mark all areas that apply to your proposed change(s). Incomplete forms may not be accepted. Location and area information must be provided on maps in accordance with established requirements. (Cal. Code Regs., tit. 23, § 715 et seg.) Provide attachments if necessary. Point of Rediversion Purpose of Use Point of Diversion Place of Use Cal. Code Regs., tit. 23. § 791(e) Wat. Code. § 1701 Wat. Code, § 1701 Wat, Code, § 1701 Distribution of Storage **Temporary Urgency Instream Flow Dedication Waste Water** Cal. Code Regs., tit. 23, § 791(e) Wat. Code, § 1435 Wat. Code, § 1707 Wat. Code, § 1211 **Terms or Conditions** Other Cal. Code Regs., tit. 23, § 836 Cal. Code Regs., tit. 23, § 791(e) Application Permit 12947A Statement 12919A License I (we) hereby petition for change(s) noted above and described as follows: Point of Diversion or Rediversion - Provide source name and identify points using both Public Land Survey System descriptions to 1/4-1/4 level and California Coordinate System (NAD 83). Present: Proposed: Place of Use - Identify area using Public Land Survey System descriptions to 1/4-1/4 level; for irrigation, list number of acres irrigated. Present: Proposed: Purpose of Use Present: Proposed: **Split** Provide the names, addresses, and phone numbers for all proposed water right holders. In addition, provide a separate sheet with a table describing how the water right will be split between the water right holders: for each party list amount by direct diversion and/or storage, season of diversion, maximum annual amount, maximum diversion to offstream storage, point(s) of diversion, place(s) of use, and purpose(s) of use. Maps showing the point(s) of diversion and place of use for each party should be provided. Distribution of Storage Present: Proposed:

Temporary Urgency This temporary urgency	change will be effective from	May 1, 2017	to October 15, 2017	
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Downstream Location:				
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	pe diverted for consumptive use the name, location coordinates,		? Yes No No at will be diverted from the stream.	
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Waste Water If applicable, provide the	e reduction in amount of treated	d waste water discharged ir	cubic feet per second.	
	water provided by a water servals treated waste water?	vice contract which prohibits	S Yes No	
Will any legal user of the	e treated waste water discharg	ed be affected? OYes	No	
General Information – For all Petitions, provide the following information, if applicable to your proposed change(s).				
Will any current Point of	f Diversion, Point of Storage, or	r Place of Use be abandone	ed? OYes No	
I (we) have access to the ownership	e proposed point of diversion o	or control the proposed plac verbal agreement	e of use by virtue of: written agreement	
If by lease or agreemen	t, state name and address of p	erson(s) from whom acces	s has been obtained.	
			ne present point of diversion or r person(s) known to you who may be	
All Right Holders Must Sign This Form: I (we) declare under penalty of perjury that this change does not involve an increase in the amount of the appropriation or the season of diversion, and that the above is true and correct to the best of my (our) knowledge and belief. Dated ### Santa Rosa, CA **This Form: I (we) declare under penalty of perjury that this change does not involve an increase in the amount of the appropriation or the season of diversion, and that the above is true and correct to the best of my (our) knowledge and belief. Dated #### Dated ####################################				
Right Holder or Authoriz	ed Agent Signature	Right Holder or Au	uthorized Agent Signature	
http://www.waterboa (2) Division of Water Rig http://www.waterboa	be accompanied by: tal Information for Petitions, includi ards.ca.gov/waterrights/publications hts fee, per the Water Rights Fee So ards.ca.gov/waterrights/water_issue nd Wildlife fee of \$850 (Pub. Resour	s_forms/forms/docs/pet_info.pd chedule, available at: es/programs/fees/	70/2010 FB 70 FB 7	

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Downstream Location:						
	ated to instream flow in either: Mar Apr May	cubic feet per second Jun Jul Aug	or gallons per day: Sep Oct Nov Dec			
	be diverted for consumptive use the name, location coordinates,		? Yes No No nat will be diverted from the stream.			
Waste Water						
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	water provided by a water servise treated waste water?	vice contract which prohibits	S Yes No			
Will any legal user of the	e treated waste water discharg	ed be affected? OYes)No			
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I (we) have access to the ownership	e proposed point of diversion of lease	or control the proposed plac verbal agreement	ce of use by virtue of: written agreement			
If by lease or agreemen	t, state name and address of p	erson(s) from whom acces	s has been obtained.			
Give name and address of any person(s) taking water from the stream between the present point of diversion or rediversion and the proposed point of diversion or rediversion, as well as any other person(s) known to you who may be affected by the proposed change.						
All Right Holders Must Sign This Form: I (we) declare under penalty of perjury that this change does not involve an increase in the amount of the appropriation or the season of diversion, and that the above is true and correct to the best of my (our) knowledge and belief. Dated 4.19.17 at Santa Rosa, CA .						
Right Holder or Authoriz	ed Agent Signature	Right Holder or Au	uthorized Agent Signature			
NOTE: All petitions must be accompanied by: (1) the form Environmental Information for Petitions, including required attachments, available at:						

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Split Cal. Code Regs., tit. 23, § 836 Terms or Conditions Cal. Code Regs., tit. 23, § 791(e) Other
Application 15737 Permit 12950 License Statement
I (we) hereby petition for change(s) noted above and described as follows:
Point of Diversion or Rediversion – Provide source name and identify points using both Public Land Survey System descriptions to ¼-¼ level and California Coordinate System (NAD 83). Present:
Proposed:
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Proposed:
Purpose of Use Present: Proposed:
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Downstream Location:
List the quantities dedicated to instream flow in either:
Will the dedicated flow be diverted for consumptive use at a downstream location? Yes No If yes, provide the source name, location coordinates, and the quantities of flow that will be diverted from the stream.
Waste Water If applicable, provide the reduction in amount of treated waste water discharged in cubic feet per second. Will this change involve water provided by a water service contract which prohibits O Yes O No your exclusive right to this treated waste water?
Will any legal user of the treated waste water discharged be affected? OYes ONo
General Information – For all Petitions, provide the following information, if applicable to your proposed change(s).
Will any current Point of Diversion, Point of Storage, or Place of Use be abandoned? Yes No
I (we) have access to the proposed point of diversion or control the proposed place of use by virtue of: ownership lease verbal agreement written agreement
If by lease or agreement, state name and address of person(s) from whom access has been obtained.
Give name and address of any person(s) taking water from the stream between the present point of diversion or rediversion and the proposed point of diversion or rediversion, as well as any other person(s) known to you who may be affected by the proposed change.
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Right Holder or Authorized Agent Signature Right Holder or Authorized Agent Signature
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Split Cal. Code Regs., tit. 23, § 836 Terms or Conditions Cal. Code Regs., tit. 23, § 791(e) Other
Application 19351 Permit 16596 License Statement
I (we) hereby petition for change(s) noted above and described as follows:
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Right Holder or Authorized Agent Signature Right Holder or Authorized Agent Signature
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April 2017

Sonoma County Water Agency

Supplement to the April 2017 Temporary Urgency Change Petition

1.0 BACKGROUND

The Sonoma County Water Agency (Water Agency) controls and coordinates water supply releases from Lake Mendocino and Lake Sonoma to implement the minimum instream flow requirements in water rights Decision 1610, which the State Water Resources Control Board (State Water Board) adopted on April 17, 1986. Decision 1610 specifies minimum flow requirements for the Upper Russian River, Dry Creek and the Lower Russian River. These minimum flow requirements vary based on water supply conditions, which are also specified in Decision 1610. The Decision 1610 requirements for the Upper Russian River and Lower Russian River are contained in term 20 of the Water Agency's water-right Permit 12947A (Application 12919A). The Decision 1610 requirements for the Lower Russian River are contained in term 17 of the Water Agency's water-right Permit 12949 (Application 15736) and term 17 of the Water Agency's water-right Permit 12950 (Application 15737). The Decision 1610 requirements for Dry Creek and the Lower Russian River are contained in term 13 of the Water Agency's water-right Permit 16596 (Application 19351).

The Water Agency's operations are also subject to the Russian River Biological Opinion issued by the National Marine Fisheries Service on September 24, 2008.

1.1 Minimum Flow Requirements

Decision 1610 requires a minimum flow of 25 cubic feet per second (cfs) in the East Fork of the Russian River from Coyote Valley Dam to the confluence with the West Fork of the Russian River under all water supply conditions. From this point to Dry Creek, the Decision 1610 required minimum Russian River flows are 185 cfs from April through August and 150 cfs from September through March during *Normal* water supply conditions, 75 cfs during *Dry* conditions and 25 cfs during *Critical* conditions. Decision 1610 further specifies two variations of the *Normal* water supply condition, commonly known as *Dry Spring 1* and *Dry Spring 2*. These conditions provide for lower required

minimum flows in the Upper Russian River during times when the combined storage in Lake Pillsbury (owned and operated by the Pacific Gas and Electric Company) and Lake Mendocino on May 31 is unusually low. *Dry Spring 1* conditions exist if the combined storage in Lake Pillsbury and Lake Mendocino is less than 150,000 acre-feet on May 31. Under *Dry Spring 1* conditions, the required minimum flow in the Upper Russian River between the confluence of the East Fork and West Fork and Healdsburg is 150 cfs from June through March, with a reduction to 75 cfs during October through December if Lake Mendocino storage is less than 30,000 acre-feet during those months. *Dry Spring 2* conditions exist if the combined storage in Lake Pillsbury and Lake Mendocino is less than 130,000 acre-feet on May 31. Under *Dry Spring 2* conditions, the required minimum flows in the Upper Russian River are 75 cfs from June through December and 150 cfs from January through March.

From Dry Creek to the Pacific Ocean, the required minimum flows in the Lower Russian River are 125 cfs during *Normal* water supply conditions, 85 cfs during *Dry* conditions and 35 cfs during *Critical* conditions.

In Dry Creek below Warm Springs Dam, the required minimum flows are 75 cfs from January through April, 80 cfs from May through October and 105 cfs in November and December during *Normal* water supply conditions. During *Dry* and *Critical* conditions, these required minimum flows are 25 cfs from April through October and 75 cfs from November through March.

Figure 1 shows all of the required minimum instream flows specified in Decision 1610 by river reach, the gauging stations used to monitor compliance, and the definitions of the various water supply conditions.

1.2 Water Supply Conditions

There are three main water supply conditions that are defined in Decision 1610, which set the minimum instream flow requirements based on the hydrologic conditions for the Russian River system. These water supply conditions are determined based on criteria for the calculated cumulative inflow into Lake Pillsbury from October 1 to the first day of each month from January to June. Decision 1610 defines cumulative inflow for Lake Pillsbury as the algebraic sum of releases from Lake Pillsbury, change in storage and lake evaporation.

Dry water supply conditions exist when cumulative inflow to Lake Pillsbury from October 1 to the date specified below is less than:

• 8,000 acre-feet as of January 1;

- 39,200 acre-feet as of February 1;
- 65,700 acre-feet as of March 1;
- 114,500 acre-feet as of April 1;
- 145,600 acre-feet as of May 1; and
- 160,000 acre-feet as of June 1.

Critical water supply conditions exist when cumulative inflow to Lake Pillsbury from October 1 to the date specified below is less than:

- 4,000 acre-feet as of January 1:
- 20,000 acre-feet as of February 1;
- 45,000 acre-feet as of March 1;
- 50,000 acre-feet as of April 1;
- 70,000 acre-feet as of May 1; and
- 75,000 acre-feet as of June 1.

Normal water supply conditions exist whenever a *Dry* or *Critical* water supply condition is not present. As indicated above, Decision 1610 further specifies three variations of the *Normal* water supply condition based on the combined storage in Lake Pillsbury and Lake Mendocino on May 31. These three variations of the *Normal* water supply condition determine the required minimum instream flows for the Upper Russian River from the confluence of the East Fork and the West Fork to the Russian River's confluence with Dry Creek. This provision of Decision 1610 does not provide for any changes in the required minimum instream flows in Dry Creek or the Lower Russian River (the Russian River between its confluence with Dry Creek and the Pacific Ocean). A summary of the required minimum flows in the Russian River for *Normal*, *Normal* — *Dry Spring 1* and *Normal* — *Dry Spring 2* water supply conditions is provided here:

1. <u>Normal</u>: When the combined water in storage in Lake Pillsbury and Lake Mendocino on May 31 of any year exceeds 150,000 acre-feet or 90 percent of the estimated water supply storage capacity of the reservoirs, whichever is less:

From June 1 through August 31

185 cfs

From September 1 through March 31 150 cfs

From April 1 through May 31 185 cfs

2. Normal-Dry Spring 1: When the combined water in storage in Lake Pillsbury and Lake Mendocino on May 31 of any year is between 150,000 acre-feet or 90 percent of the estimated water supply storage capacity of the reservoirs, whichever is less, and 130,000 acre-feet or 80 percent or the estimated water supply storage capacity of the reservoirs, whichever is less:

From June 1 through March 31 150 cfs

From April 1 through May 31 185 cfs

If from October 1 through December 31, storage in Lake Mendocino is less than

30,000 acre-feet 75 cfs

3. Normal-Dry Spring 2: When the combined water in storage in Lake Pillsbury and Lake Mendocino on May 31 of any year is less than 130,000 acre-feet or 80 percent of the estimated water supply storage capacity of the reservoirs, whichever is less:

From June 1 through December 31 75 cfs

From January 1 through March 31 150 cfs

From April 1 through May 31 185 cfs

2.0 PROJECTED WATER SUPPLY CONDITIONS

From October 1, 2016 to April 17, 2017, the cumulative inflow into Lake Pillsbury was 771,787 acre-feet. Consequently, the water supply condition will be categorized as *Normal* for the remainder of the year. Based on these criteria, the Decision 1610 required minimum instream flows in the Upper Russian River (from the East Fork Russian River to the Russian River's confluence of Dry Creek) will be 185 cfs between April 1 and May 31. The required minimum in-stream flows starting June 1 will be determined based on the combined storage of Lake Pillsbury and Lake Mendocino on May 31. At this time, the projected combined storage amount is difficult to predict

because it is heavily dependent on late spring precipitation. However, based on the current hydrologic trends, the Water Agency anticipates that the water supply condition starting June 1 will likely be *Normal*. Consequently, the Decision 1610 required minimum instream flows in the Upper Russian River will be 185 cfs until August 31 and then 150 cfs for the remainder of the year. In the Lower Russian River, the required minimum instream flow will be 125 cfs.

2.1 <u>Lake Mendocino</u>

As of April 17, 2017 the water supply storage level in Lake Mendocino was 92,532 acrefeet (AF) and still gaining. This storage level is 110 percent of the Target Water Supply Curve for this time of year. Figure 2 shows the storage level in Lake Mendocino compared to the 30-year average between 1987 and 2016. As shown in the figure, the storage level is well above the 30-year average for this time of year.

2.2 Lake Sonoma

As of April 17, 2017 the water supply storage level in Lake Sonoma was 252,828 AF and still gaining. This storage level is slightly greater than 103 percent of the available water conservation pool. Figure 3 shows the storage level in Lake Sonoma compared to the 30 year average between 1987 and 2016. As shown in the figure, the storage level is well above the 30-year average for this time of year.

3.0 RUSSIAN RIVER BIOLOGICAL OPINION

Under the federal Endangered Species Act (ESA), coho salmon in the Russian River watershed are listed as an endangered species, and steelhead and Chinook salmon are listed as threatened species. Additionally, coho salmon are listed as an endangered species under the California Endangered Species Act (CESA). In September 2008, the National Marine Fisheries Service (NMFS) issued the Russian River Biological Opinion (Biological Opinion). This Biological Opinion was the culmination of more than a decade of consultation under Section 7 of the ESA by the Water Agency and U.S. Army Corps of Engineers (Corps) with NMFS regarding the effects of the Water Agency's and Corps' water supply and flood control operations in the Russian River watershed on the survival of these listed fish species.

Studies conducted during the consultation period led NMFS to conclude in the Biological Opinion that the summer flows in the Upper Russian River and Dry Creek required by Decision 1610 create velocities that are too high for optimal juvenile salmonid habitat.

NMFS also concluded in the Biological Opinion that the historical practice of breaching the sandbar that closes the mouth of the Russian River to minimize flood risk during the summer and fall may adversely affect the listed species. NMFS concluded in the Biological Opinion that it might be better for juvenile steelhead if the estuary was managed as seasonal freshwater lagoon in the summer months. Minimum instream flows lower than those required by Decision 1610 may result in flows into the estuary that improve opportunities to maintain a freshwater lagoon while minimizing risk of flooding low-lying properties.

To address these issues, NMFS's Biological Opinion requires the Water Agency and Corps to implement a series of actions to modify existing water supply and flood control activities that, in concert with habitat enhancement measures, are intended to minimize impacts to listed salmon species and enhance their habitats in the Russian River and its tributaries. The Water Agency is responsible for the following actions under the Biological Opinion:

- Petitioning the State Water Board to modify permanently the requirements for minimum instream flows in the Russian River and Dry Creek (original Petition filed on September 23, 2009; revised petition filed on August 17, 2016);
- Enhancing salmonid habitat in Dry Creek and its tributaries;
- Developing a bypass pipeline around Dry Creek, if habitat enhancement measures are unsuccessful;
- Changing Russian River estuary management;
- Improving water diversion infrastructure at the Water Agency's Wohler and Mirabel facilities:
- Modifying flood control maintenance activities on the main stem Russian River and its tributaries; and
- Continuing to participate in the Coho Brood stock program.

The Biological Opinion acknowledges that implementing permanent changes to the minimum instream flow requirements for the Russian River and Dry Creek will take several years, including the time needed for review under the California Environmental Quality Act (CEQA) and compliance with state and federal regulations. Consequently, the Biological Opinion requires that, beginning in 2010, the Water Agency file annual petitions with the State Water Board for temporary changes to the Decision 1610 minimum instream flow requirements in the main stem Russian River until the State Water Board has issued an order on the Agency's petition for permanent changes to the Decision 1610 minimum instream flow requirements. The Biological Opinion requires the Water Agency to request that the main stem minimum instream flow requirements be

temporarily changed to the following values during Normal water supply conditions:

- 70 cfs between May 1 and October 15 at the U.S. Geological Survey (USGS) gage located at Hacienda Bridge (with the understanding that an operational buffer typically will result in flows of approximately 85 cfs)
- 125 cfs between May 1 and October 15 at the USGS gage located at Healdsburg

The temporary changes to Decision 1610 minimum instream flows specified in the Biological Opinion are summarized in Figure 4. (The Biological Opinion does not require the Water Agency to seek any temporary changes to the minimum instream flow requirements for Dry Creek.)

4.0 CRITERIA FOR APPROVING TEMPORARY URGENCY CHANGE TO PERMITS 12947A, 12949, 12950, 16596

As required by Water Code section 1435, subdivision (b), the State Water Board must make the following findings before issuing a temporary change order:

- 1. The permittee or licensee has an urgent need to make the proposed change;
- 2. The proposed change may be made without injury to any other lawful user of water;
- 3. The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
- 4. The proposed change is in the public interest.

4.1 <u>Urgency of the Proposed Change</u>

Decision 1610 set the minimum instream flow requirements that the State Water Board concluded, in 1986, would benefit both fishery and recreation uses, and would "preserve the fishery and recreation in the river and in Lake Mendocino to the greatest extent possible while serving the needs of the agricultural, municipal, domestic, and industrial uses which are dependent upon the water" (D 1610, § 13.2, page 21). The State Water Board also concluded in Decision 1610 that additional fishery studies should be done (D 1610, § 14.3.1, pages 26-27).

Thirty years later, it appears that the flows set by Decision 1610 no longer benefit fishery uses. To the contrary, the Biological Opinion concludes that summertime flows in the Russian River during Normal water supply conditions, at the levels required by Decision 1610, are higher than the optimal levels for the listed fish species. The Biological Opinion contains an extensive analysis of the impacts of these required minimum instream flows on listed fish species. The Biological Opinion requires the Water Agency to file a petition (original petition filed on September 23, 2009; revised petition filed on August 17, 2016) with the State Water Board to improve conditions for listed species by seeking permanent reductions in the minimum instream flow requirements contained in Water Agency's existing water rights permits. The Biological Opinion also contains the following requirement:

"To help restore freshwater habitats for listed salmon and steelhead in the Russian River estuary, SCWA will pursue interim relief from D1610 minimum flow requirements by petitioning the SWRCB for changes to D1610 beginning in 2010 and for each year prior to the permanent change to D1610. These petitions will request that minimum bypass flows of 70 cfs be implemented at the USGS gage at the Hacienda Bridge between May 1 and October 15, with the understanding that for compliance purposes SCWA will typically maintain about 85 cfs at the Hacienda gage. For purposes of enhancing steelhead rearing habitats between the East Fork and Hopland, these petitions will request a minimum bypass flow of 125 cfs at the Healdsburg gage between May 1 and October 15. NMFS will support SCWA's petitions for these changes to D1610 in presentations before the SWRCB."

(Biological Opinion, page 247.)

One of the species listed under the federal ESA (coho salmon) is also listed under the California Endangered Species Act (CESA). The California Department of Fish and Wildlife (DFW) has issued a consistency determination in which it determined that the incidental take statement issued to Water Agency by NMFS in connection with the Biological Opinion is consistent with the provisions and requirements of CESA.

In light of this background, an urgent need exists for the proposed change. As discussed in the Biological Opinion, the temporary changes that are requested in this petition will improve habitat for the listed species by reducing instream flows and by increasing storage for later fishery use, without unreasonably impairing other beneficial uses, thus maximizing the use of Russian River water resources. Moreover, given the listings of Chinook salmon, coho salmon, and steelhead under the federal ESA, there is a need for prompt action. As demonstrated by the Biological Opinion, there has been an extensive analysis of the needs of the fishery, and fishery experts agree that the

Decision 1610 minimum instream flows appear to be too high.

4.2 No Injury to Any Other Lawful User of Water

If this petition is granted, the Water Agency still will be required to maintain specified minimum flows in the Russian River. Because these minimum flows will be present, all other legal users of water still will be able to divert and use the amounts of water that they legally may divert and use. Accordingly, granting this petition will not result in any injury to any other lawful user of water.

4.3 No Unreasonable Effect upon Fish, Wildlife, or Other Instream Beneficial Uses

This petition is based upon the analysis contained in the 2008 Biological Opinion, which was issued primarily to improve conditions for fish resources in the Russian River system. Two types of improved conditions will result from an order approving this petition. First, the Biological Opinion concludes that stream flows that are required by Decision 1610 are too high for optimum fish habitat. If this petition is granted, then lower stream flows, which will result in better fish habitat, will occur. Second, lowering the required minimum instream flows will result in higher fall storage levels in Lake Mendocino. The resulting conservation of water in Lake Mendocino will allow enhanced management of Russian River flows in early fall for the benefit of fish migration.

It is possible that reduced flows in the Russian River may impair some instream beneficial uses, principally recreation uses. However, although some recreation uses may be affected by these reduced flows, any such impacts on recreation this summer will be reasonable in light of the impacts to fish that could occur if the petition were not approved.

4.4 The Proposed Change is in the Public Interest

As discussed above, the sole purpose of this petition is to improve conditions for listed Russian River salmonid species, as determined by NMFS and DFW. Approval of the Water Agency's petition to reduce instream flows to benefit the fishery will also result in higher fall storage levels in Lake Mendocino, which will make more water available in the fall for fishery purposes. Under these circumstances, it is in the public interest to temporarily change the Decision 1610 minimum required instream flows.

5.0 REQUESTED TEMPORARY URGENCY CHANGE TO PERMITS 12947A, 12949, 12950, 16596

To meet the terms and conditions of the Biological Opinion and to avoid excessively high flows that could result in violations to the Biological Opinion's Incidental Take Statement, the Water Agency is filing this TUCP. It requests that the State Water Board make the following changes to the Water Agency's permits for a period of 180 days from May 1, 2017 until October 15, 2017:

- (1) reduce the required minimum instream flow in the Russian River from the confluence of the East and West Forks to the river's confluence with Dry Creek from 185 cfs to 125 cfs; and
- (2) reduce required minimum instream flow in the Russian River from its confluence with Dry Creek to the Pacific Ocean from 125 cfs to 70 cfs.

The sole purpose of the requested changes is to meet the terms and conditions of the Biological Opinion, as there is adequate water supply available in Lake Mendocino and Lake Sonoma to meet this year's water supply demands by legal users and minimum instream flows required by Decision1610.

To improve its efforts at achieving the optimal habitat conditions in the Lower Russian River and to optimally manage flows in the entire river, the Water Agency has requested in this year's TUCP (as in previous ones) that the minimum instream flow requirement be implemented on a 5-day running average of average daily streamflow measurements with the condition that instantaneous flows on the Upper Russian River be no less than 110 cfs and on the Lower Russian River be no less than 60 cfs. This adjustment will allow the Water Agency to manage stream flows with a smaller operational buffer, thereby facilitating the attainment of the low flow conditions that the Biological Opinion identifies as being conducive to the enhancement of salmonid habitat. Reducing the operational buffer will also conserve water supply in Lake Mendocino, resulting in higher storage levels in the fall for increased releases for migrating Chinook salmon and improving carry over storage for the following year.

6.0 WATER CONSERVATION ACTIVITIES

The Water Agency's water contractors are committed to eliminating non-beneficial uses of potable water. The Water Agency and its water contractors continue to implement water use efficiency programs that align with the California Urban Water Conservation

Council's Best Management Practices (BMPs) and comply with SB 7x-7. While these BMPs remain the baseline for the region, the establishment of the Sonoma-Marin Water Saving Partnership (Partnership) in December 2010 memorialized the region's commitment to long-term, year-round water use efficiencies. The Partnership removes one of the most significant barriers to implementing conservation programs, funding. Each Partner has committed to a sustained level of funding that is allocated specifically to implementing conservation programs while continuously implementing water conservation programs to reduce overall regional water use.

The Partnership represents eleven North Bay water utilities in Sonoma and Marin counties that have joined together to provide regional solutions for water use efficiency. The utilities (Partners) are: the Cities of Santa Rosa, Rohnert Park, Petaluma, Sonoma, Cotati; North Marin Water, Valley of the Moon and Marin Municipal Water Districts; Cal American Water Company-Larkfield; the Town of Windsor and the Sonoma County Water Agency. The Partnership was formed to identify and recommend water use efficiency projects and to maximize the cost-effectiveness of water use efficiency programs in our region.

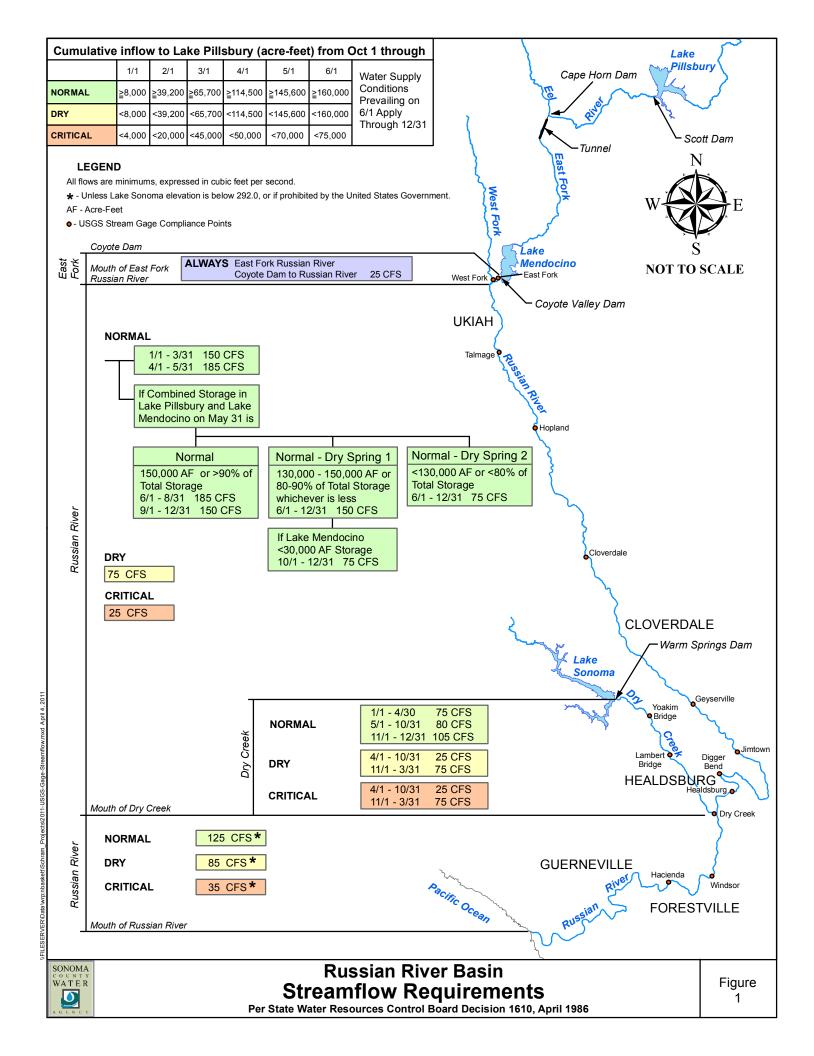
On April 7, 2017 Governor Edmund G. Brown Jr. issued Executive Order B-40-17 that removes the drought emergency for much of the State. Despite this Executive Order, the Partners are committed to maintain a conservation ethic in the region and will continue to implement conservation programs that minimize post drought water demand rebounds. Beyond the State's monthly reporting of water use, the Partners will continue to collect regional data to ensure our water customers remain engaged in making conservation a California way of life.

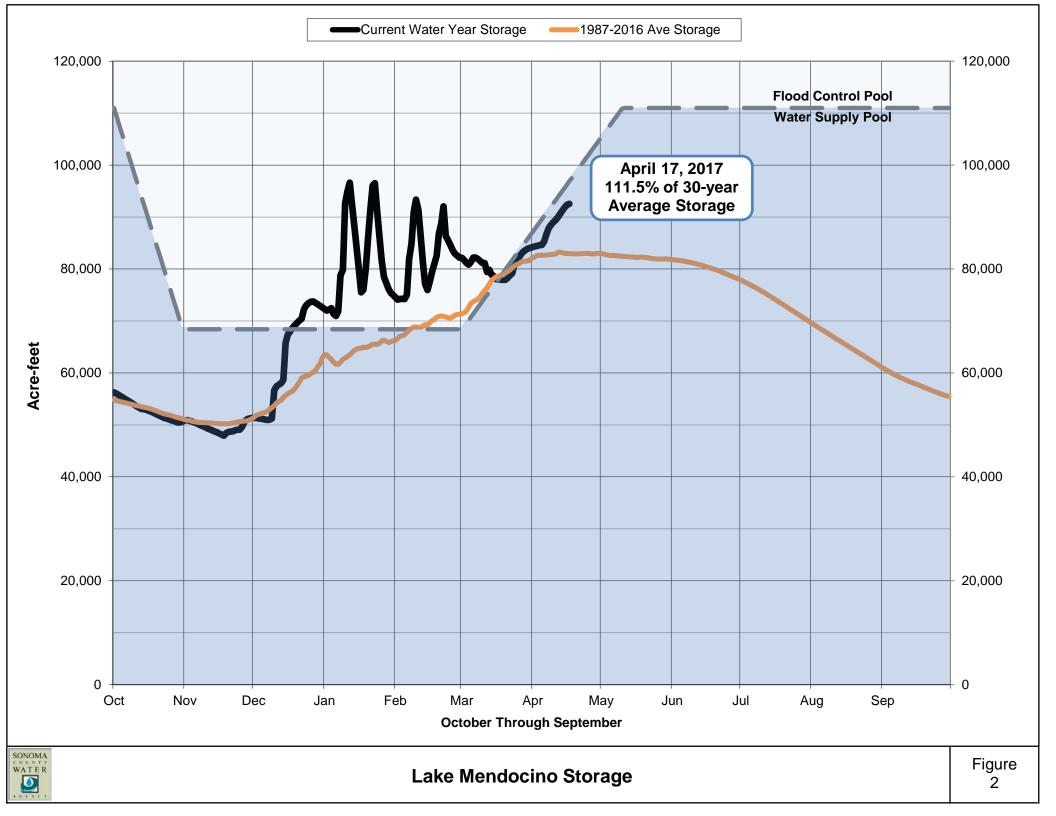
7.0 CONCLUSION

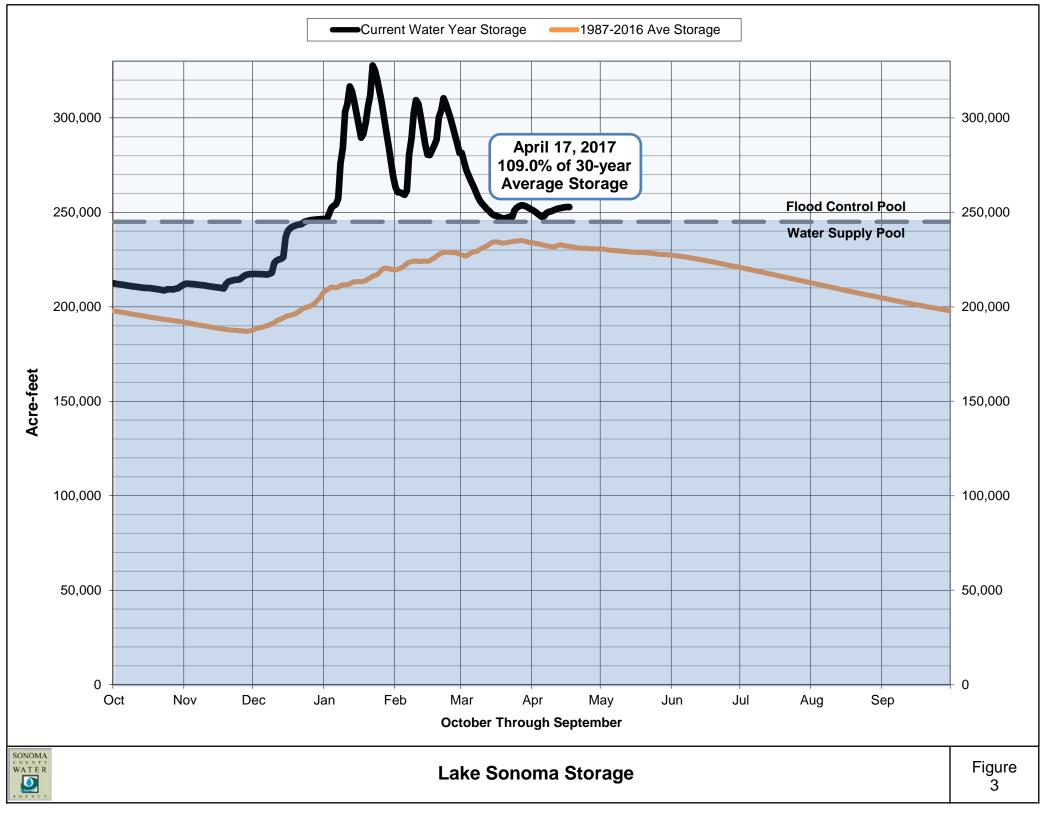
The potential need to make changes after 1986 to the minimum instream flow requirements specified in Decision 1610 was contemplated by Decision 1610. Decision 1610 states: "Our decision will be subject to a reservation of jurisdiction to amend the minimum flow requirements if future studies show that amendments might benefit the fisheries or if operating the project under the terms and conditions herein causes unforeseen adverse impacts to the fisheries." As discussed in this petition, fisheries studies conducted during the last two decades, which ultimately led to NMFS' Biological Opinion, now indicate the need to amend the Decision 1610 minimum flow requirements. The Water Agency therefore requests that the State Water Board approve this petition.

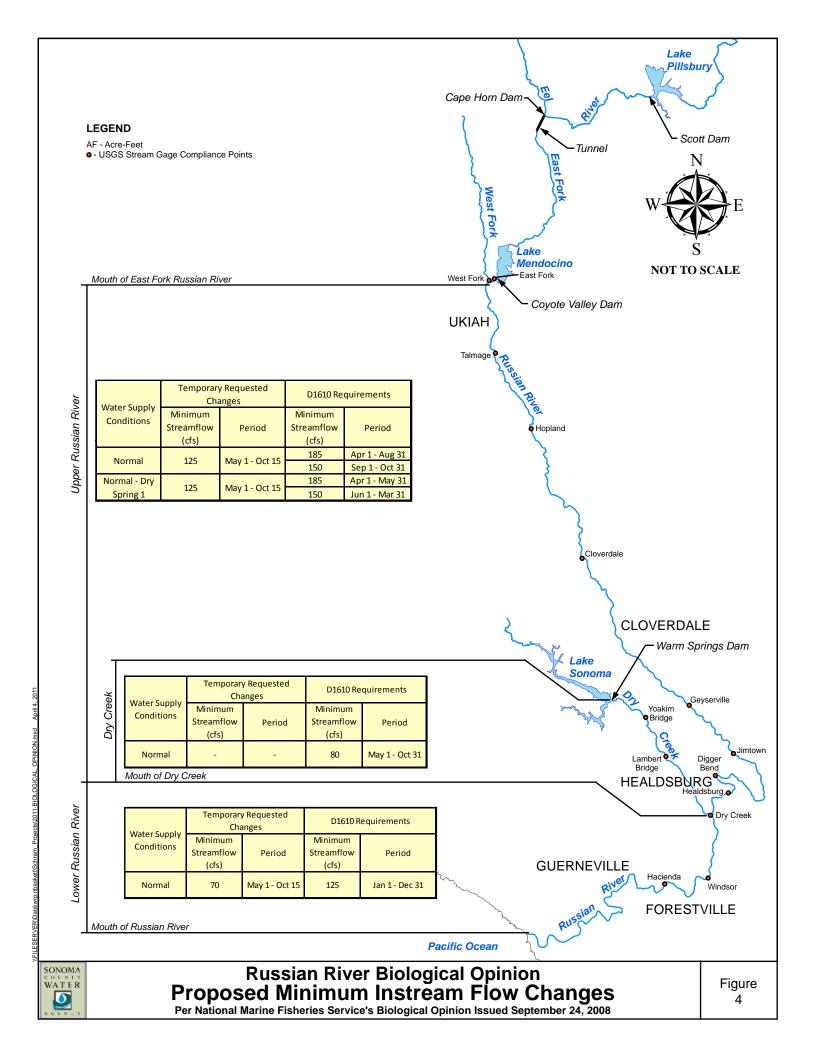
April 2017

Figures









State of California State Water Resources Control Board DIVISION OF WATER RIGHTS P.O. Box 2000, Sacramento, CA 95812-2000

Tel: (916) 341-5300 Fax: (916) 341-5400 http://www.waterboards.ca.gov/waterrights

ENVIRONMENTAL INFORMATION FOR PETITIONS

This form is required for all petitions.

Before the State Water Resources Control Board (State Water Board) can approve a petition, the State Water Board must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets.

DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

See 'Supplement to the April 2017 Temporary Urgency Change Petition' for a summary of the requested changes.

For a petition for change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

Insert the attachment number here, if applicable:	

Page 1 of 4

Coordination with Regional Water Quality Control Board

For change petitions only, you must request consultation with the Regional Water Quality Control Board regarding the potential effects of your proposed change on water quality and other instream beneficial uses. (Cal. Code Regs., it. 23, § 794.) In order to determine the appropriate office for consultation, see: http://www.waterboards.ca.gov/waterboards_map.shtml. Provide the date you submitted your request for consultation here, then provide the following information.		Date of Request		
			4/ 11 /2017	
Will your project, during construction or operation, (1) generate waste wastewater containing such things as sewage, industrial chemicals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimental	metals,	0	Yes	No
Will a waste discharge permit be required for the project?		0	Yes	No
If necessary, provide additional information below:				
Request for consultation sent via email to Matt St. John, the Executive Officer of the North Coal				-
Local Permits				
For temporary transfers only, you must contact the board of supervision county(ies) both for where you currently store or use water and where to transfer the water. (Wat. Code § 1726.) Provide the date you subrayour request for consultation here.	e you propose		Date of	Contact
For change petitions only, you should contact your local planning or pinformation below.	public works de	part	ment and	d provide the
Person Contacted: Date of C	contact:			
Department: Phone No	umber:			
County Zoning Designation:				
Are any county permits required for your project? If yes, indicate type	e below.) Y	es (● No
Grading Permit Use Permit Watercours	se O	bstru	ıction Pe	rmit
Change of Zoning General Plan Change O	ther (explain be	elow)	l	
If applicable, have you obtained any of the permits listed above? If ye	es, provide cop	ies.	O Ye	es O No
If necessary, provide additional information below:				
Insert the attachment number here, if applicable:				

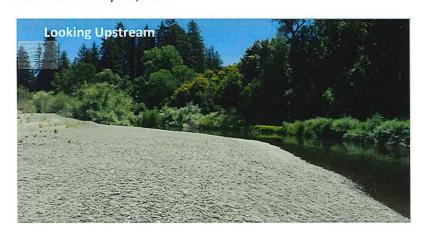
Federal and State Permits Check any additional agencies that may require permits or other approvals for your project: Regional Water Quality Control Board Department of Fish and Game Dept of Water Resources, Division of Safety of Dams California Coastal Commission State Reclamation Board U.S. Army Corps of Engineers U.S. Forest Service Federal Energy Regulatory Commission Bureau of Land Management Natural Resources Conservation Service Have you obtained any of the permits listed above? If yes, provide copies. No Yes For each agency from which a permit is required, provide the following information: Permit Type Person(s) Contacted Agency Contact Date Phone Number If necessary, provide additional information below: Insert the attachment number here, if applicable: **Construction or Grading Activity** Does the project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank or riparian habitat of any stream or lake? If necessary, provide additional information below: Insert the attachment number here, if applicable:

Archeology		
Has an archeological report been prepared for this project? If yes, provide a copy.		No
Will another public agency be preparing an archeological report?		No
Do you know of any archeological or historic sites in the area? If yes, explain below.	OYes	No
If necessary, provide additional information below:		
Insert the attachment number here, if applicable:		
Photographs		
For all petitions other than time extensions, attach complete sets of color photographs labeled, showing the vegetation that exists at the following three locations:	s, clearly dat	ted and
Along the stream channel immediately downstream from each point of diversion	on	
Along the stream channel immediately upstream from each point of diversion		
At the place where water subject to this water right will be used		
Maps		
For all petitions other than time extensions, attach maps labeled in accordance with trapplicable features, both present and proposed, including but not limited to: point of crediversion, distribution of storage reservoirs, point of discharge of treated wastewater location of instream flow dedication reach. (Cal. Code Regs., tit. 23, §§ 715 et seq., 7	liversion, po er, place of u	int of
Pursuant to California Code of Regulations, title 23, section 794, petitions for change may not be accepted.	submitted w	vithout maps
All Water Right Holders Must Sign This Form: I (we) hereby certify that the statements I (we) have furnished above and in the attack the best of my (our) ability and that the facts, statements, and information presented above to find the statements of my (our) knowledge. Dated Santa Rosa, Company of the statements of my (our) knowledge.	are true and	
Water Right Holder or Authorized Agent Signature Water Right Holder or Authorized Water Right Holder or Authorized Agent Signature	orized Agent	t Signature
NOTE:		
 Petitions for Change may not be accepted unless you include proof that a copy of the petiti 	on was served	d on the

- <u>Petitions for Change</u> may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game. (Cal. Code Regs., tit. 23, § 794.)
- Petitions for Temporary Transfer may not be accepted unless you include proof that a copy of the petition was served
 on the Department of Fish and Game and the board of supervisors for the county(ies) where you currently store or use
 water and the county(ies) where you propose to transfer the water. (Wat. Code § 1726.)

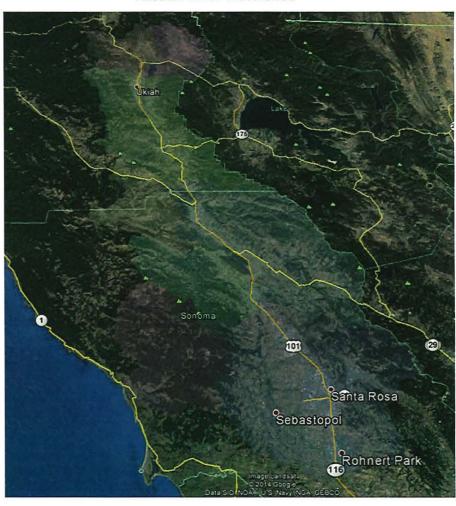
Sonoma County Water Agency Photographs in Vicinity of Main Diversion Facilities at Mirabel Park

Russian River Downstream of Mirabel Park Production Facilities on July 12, 2016





Russian River Watershed



Sonoma County Water Agency

Photographs of Russian River Upstream of Mirabel Park Production Facilities on July 12, 2016

Mirabel Inflatable Dam and New Fish Ladder Under Construction





NOTICE OF EXEMPTION

To: X Office of Planning & Research

1400 Tenth Street Sacramento, CA 95814 From: Sonoma County Water Agency

404 Aviation Boulevard Santa Rosa, CA 95403

X County Clerk
County of Sonoma
Santa Rosa, CA 95401

X County Clerk
County of Mendocino
Ukiah, CA 95482

Project Title: Petition by Sonoma County Water Agency Requesting Approval of a Temporary Urgency

Change in Permits 12947A, 12949, 12950 and 16596 in Mendocino and Sonoma Counties (Applications 12919A, 15736, 15737, and 19351): 2017 Temporary Changes to Minimum

Instream Flow Requirements of Decision 1610.

Project Location-Specific: The proposed action would occur in Mendocino and Sonoma counties at Lake Mendocino, in the Upper Russian River from Coyote Valley Dam/Lake Mendocino to the confluence with Dry Creek, and in the Lower Russian River from its confluence with Dry Creek to the Pacific Ocean. Figure 1 shows the streamflow requirements for the Russian River system. Communities and cities along the Russian River include Ukiah, Hopland, Cloverdale, Geyserville, Healdsburg, Forestville, Mirabel Park, Rio Nido, Guerneville, Monte Rio, Duncans Mills, and Jenner.

Project Location – City:	N/A	Project Location - County:	Mendocino and Sonoma

Project Background: The National Marine Fisheries Service (NMFS) issued its *Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed* (Russian River Biological Opinion) on September 24, 2008.¹ NMFS concluded in the Russian River Biological Opinion that the continued operations of Coyote Valley Dam and Warm Springs Dam by the U.S. Army Corps of Engineers and Water Agency in a manner similar to recent historic practices, together with the Water Agency's stream channel maintenance activities and estuary management, are likely to jeopardize and adversely modify critical habitat for endangered Central California Coast coho salmon and threatened Central California Coast steelhead.

The Water Agency controls and coordinates water supply releases from the Coyote Valley Dam and Warm Springs Dam projects in accordance with the minimum flow requirements that Decision 1610, adopted by the State Water Resources Control Board (SWRCB) in 1986, added to the Water Agency's water right permits. NMFS' Russian River Biological Opinion requires changes to the Decision 1610 minimum instream flow requirements to enable alternative flow management scenarios that will increase available rearing habitat in Dry Creek and the upper Russian River, and provide a lower, closer-to-natural inflow to the estuary between late spring and early fall, thereby enhancing the potential for maintaining a seasonal freshwater lagoon that will likely support increased production of juvenile steelhead and salmon.²

¹ NMFS' Russian River Biological Opinion may be accessed online at www.sonomacountywater.org and may be reviewed at the Water Agency's office at 404 Aviation Boulevard, Santa Rosa, CA.

² National Marine Fisheries Service. Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed. p. 243. September 2008.

As required by the Russian River Biological Opinion, in September 2009 the Water Agency filed a petition with the SWRCB to make permanent changes to the Decision 1610 minimum instream flow requirements. This petition presently is pending before the SWRCB. The SWRCB will not act on this petition until the necessary environmental impact report is prepared and the water-rights issues associated with this petition are resolved.

Until the SWRCB issues an order on this petition, the Water Agency must maintain the minimum instream flows adopted in Decision 1610, with resulting impacts to listed salmonids identified in NMFS' Biological Opinion, unless temporary changes to these requirements are authorized by the SWRCB. To help restore freshwater habitats for listed salmon and steelhead, the Biological Opinion requires that the Water Agency petition the SWRCB for temporary changes to minimum instream flow requirements beginning in 2010 and for each year thereafter until the SWRCB issues an order on the Water Agency's petition for the permanent changes to the Decision 1610 minimum instream flow requirements. NMFS' Biological Opinion does not contain any alternative mechanism for complying with its terms while the SWRCB is considering permanent changes to Decision 1610. Filing for an annual temporary change is the only way the Water Agency is able to remain in compliance with the Biological Opinion and be prevented from having take liability under the Endangered Species Act. The temporary changes include a reduction in the minimum instream flow to 70 cubic feet per second (cfs) in the lower Russian River between May 1 and October 15, with the understanding that, because of the need to maintain an operational buffer above this minimum requirement, the Water Agency typically will maintain a flow of about 85 cfs at this point. Additionally, for the purposes of enhancing steelhead rearing habitat between the East Fork and Hopland, the temporary changes include a reduction in the minimum instream flow to 125 cfs in the upper Russian River between May 1 and October 15.3 NMFS' Russian River Biological Opinion only requires petitions for temporary changes to minimum streamflows on the mainstem Russian River, and not on Dry Creek. This petition does not seek any changes in the Dry Creek minimum-flow requirements adopted in Decision 1610.

Description of Nature, Purpose and Beneficiaries of Project: To comply with the requirements of the Russian River Biological Opinion, the Water Agency is filing a temporary urgency change petition with the SWRCB that asks the SWRCB to temporarily change the instream flow requirements for the Russian River mainstem that were adopted in Decision 1610 and now are in the Water Agency's water right permits between May 1 and October 15, 2017, to the following (Figure 2): (a) a minimum instream flow requirement of 125 cfs in the upper Russian River (upstream of the confluence with Dry Creek and downstream of the confluence of the East and West Forks), measured as a 5-day running average of average daily streamflow measurements with a provision that instantaneous flows will not be less than 110cfs. and (b) 70 cfs in the lower Russian River (downstream of its confluence with Dry Creek), measured as a 5-day running average of average daily streamflow measurements with a provision that instantaneous flows will not be less than 60 cfs.

Decision 1610 specifies the minimum instream flow requirements for Dry Creek and the Russian River (see Figure 1). These requirements vary based on defined hydrologic conditions. If approved, the requested reductions in Russian River instream flow requirements will be in effect May 1 through October 15, 2017. Under Normal water supply conditions, the Decision 1610 minimum flow requirements during this time period could be as high as 185 cfs in the upper Russian River, 125 cfs in the lower Russian River, and 80 cfs in Dry Creek. Under the proposed temporary change, the minimum flow requirements during the period of the temporary change could be as low as 110cfs in the upper Russian River and 60 cfs in the lower Russian River. No temporary change in the Dry Creek minimum flow requirements is required by the Biological Opinion or proposed and the minimum flow requirement in Dry Creek will remain at 80 cfs during the temporary change period. The proposed temporary changes in Russian River instream flow requirements will not result in any unusual circumstances, because the proposed minimum instream flow requirements are within the range of those that already occur during Dry and Critical water supply conditions under Decision 1610.

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³ National Marine Fisheries Service. Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed. p 247. September 2008.

During the period that the proposed temporary flow changes are in effect, the Water Agency will also monitor water quality and fish, and collect and report information and data related to monitoring activities, as required by NMFS' Russian River Biological Opinion.

Name of Public Agency Approving Project: State Water Resources Control Board - Division of Water Rights

Name of Person or Agency Carrying Out Project: Sonoma County Water Agency

Exempt Status: (check one)

_,,,,,,,	ispe Gracias; (Gricon Gric)	
Χ	Ministerial (Sec. 21080(b)(1); 15268)	Section 15268(a): Ministerial Action
	Declared Emergency (Sec. 21080(b)(3); 15269(a))	
	Emergency Project (Sec.21080 (b)(4); 15269(b)(c)):	
Х	Categorical Exemption. State type and section number:	State CEQA Guidelines 15307: Actions by Regulatory Agencies for Protection of Natural Resources
		State CEQA Guidelines 15308: Actions by Regulatory Agencies for Protection of the Environment
		State CEQA Guidelines 15301(i): Existing Facilities
	Statutory Exemptions. State code number:	

Reasons why project is exempt: The proposed action is a ministerial action under CEQA Statute 21080(b)(1) and categorically exempt from the California Environmental Quality Act (CEQA) under the State CEQA Guidelines Sections 15307, 15308, and 15301(i).

A. Ministerial Action

California Public Resources Code, Division 13, Section 21080(b)(1) provides that ministerial projects proposed to be carried out or approved by public agencies are exempt from CEQA where the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, Section 15002(i)(1). In order to to comply with the Endangered Species Act, the Water Agency is required by NMFS' Russian River Biological Opinion to annually apply for a temporary urgency change petition with the SWRCB that asks the SWRCB to temporarily change the instream flow requirements for the Russian River mainstem that were adopted in Decision 1610 until a permanent decision is made.

B. Actions by Regulatory Agencies for Protection of Natural Resources and the Environment

CEQA Guidelines Sections 15307 and 15308 provide that actions taken by regulatory agencies to assure the maintenance, restoration or enhancement of a natural resource and the environment are categorically exempt from CEQA. If approved, the proposed changes in Russian River minimum instream flow requirements will increase available rearing habitat in the upper Russian River and provide a lower, closer to natural inflow to the estuary between late spring and early fall, thereby enhancing the potential for maintaining a seasonal freshwater lagoon that could support increased production of juvenile steelhead. NMFS' Russian River Biological Opinion states that these changes are necessary to avoid jeopardizing the continued existence of the listed species.⁴

C. Existing Facilities

Guidelines Section 15301(i) provides, generally, that the operation of existing facilities involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination is categorically exempt from CEQA. Subdivision (i) of Section 15301 specifically includes maintenance of streamflows to protect fish and wildlife resources. The Water Agency's petition to the SWRCB to change to the instream flow requirements specified in the

⁴ National Marine Fisheries Service. Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed. p. 247. September 2008.

Russian River Biological Opinion does not request and will not expand Water Agency use or increase the water supply available to the Water Agency for consumptive purposes. The proposed change in Russian River minimum instream flow requirements still will be within the existing operational parameters established by Decision 1610.

Lead Agency Contact Person:	Jessica Martini-Lamb	Area Code/Telepho	ne: 707-547-1903
Signature: Pamela June	GD Date:	04/19/2017 Title:	General Manager
X Lead Agency Applica	nt Date Received for filing a	t OPR:	

