

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 16596 (Application 19351)

Sonoma County Water Agency

ORDER APPROVING TEMPORARY URGENCY CHANGE

SOURCES: Dry Creek, Russian River, and East Fork Russian River

COUNTIES: Sonoma and Mendocino

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION

On February 19, 2025, Sonoma County Water Agency (Sonoma Water) filed a Temporary Urgency Change Petition (TUCP) with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) requesting approval of a temporary change to the subject permit pursuant to California Water Code section 1435. The petition seeks authorization to add a point of diversion to Sonoma Water's Permit 16596 to conduct an aquifer storage and recovery (ASR) pilot study at its existing well in the Santa Rosa Plain groundwater basin, from the date of approval, through a term of 180 days.¹

This temporary change is requested to aid in local community water supply resiliency. Since 2013, the Russian River has experienced two multi-year droughts in 2013-2015 and 2020-2022, resulting in declarations of insufficient water supplies and subsequent water right curtailments in the Russian River watershed. Sonoma Water's water right permits were subject to curtailments and mandatory water conservation measures. The Russian River is the primary water supply for Sonoma Water.

¹ Sonoma Water submitted a request to the State Water Board on May 15, 2025, to move the start date beyond July 1, 2025, due to construction-related issues that would delay initiation of the ASR project.

Approval of the TUCP would authorize the use of water for ASR pilot testing at Sonoma Water's Sebastopol Road well, located near the City of Sebastopol. The ASR pilot test will use existing infrastructure to deliver water from the Russian River to the well site for purposes of groundwater recharge. Recharge water would be potable water from Sonoma Water's transmission system, operating at a maximum recharge rate of 1.2 cubic feet per second (cfs) and a maximum production (withdrawal) rate of 2.3 cfs.

The Sebastopol Road well is located in the Santa Rosa Plain Groundwater Subbasin of the Santa Rosa Valley Basin. The basin is a medium priority basin subject to the requirements of the Sustainable Groundwater Management Act (SGMA). The Groundwater Sustainability Plan (GSP) includes ASR as a key project for achieving and maintaining sustainable conditions within the subbasin. The sustainable yield of the subbasin, defined as the quantity of groundwater that can be pumped on a long-term average annual basis without causing undesirable results, is estimated to be 23,900 acre-feet per year, according to the GSP. When fully operational, the Sebastopol Road well is expected to have the capacity to recharge and recover 250 acre-feet of water per year, however the total amount of recharge and recovery under the pilot study is anticipated to be up to 50 acre-feet of water.

2.0 BACKGROUND OF SONOMA WATER'S WATER SUPPLY AND WATER RIGHTS

2.1 Sonoma Water's Water Supply

Sonoma Water operates two water supply and flood control reservoirs in the Russian River watershed. Coyote Valley Dam, which forms Lake Mendocino, is located on the East Fork Russian River, a tributary to the Russian River, near the City of Ukiah in Mendocino County. Warm Springs Dam, which forms Lake Sonoma, is located on Dry Creek, another tributary to the Russian River, near the City of Healdsburg in Sonoma County. Sonoma Water manages water storage in Lake Mendocino and Lake Sonoma to optimize the water supply yields of the reservoirs, and controls releases from both reservoirs to maintain the minimum instream flow requirements specified in its water right permits and for downstream beneficial uses along the Upper Russian River, Lower Russian River, and Dry Creek.

2.2 Sonoma Water's Water Rights

Sonoma Water holds water right Permit 12947A, which authorizes storage of water in Lake Mendocino and direct diversion and rediversion of water originating in the East Fork Russian River. Under Permit 12947A, the combined direct diversion and rediversion amounts are limited to an average monthly rate of 92 cfs and 37,544 acre-feet per annum (afa). Water right Permit 16596 authorizes storage of 245,000 afa at Lake Sonoma from October 1 to May 1 of the succeeding year, and the direct diversion and rediversion of up to 180 cfs from the Russian River from

January 1 to December 31 of each year. Sonoma Water also holds water right Permits 12949 and 12950 for direct diversion of 20 and 60 cfs, respectively, from diversion facilities on the Russian River.

State Water Board Decision 1610 specifies minimum instream flow requirements for the Upper Russian River, Dry Creek, and the Lower Russian River. These minimum instream flow requirements vary based on water supply conditions specified in Decision 1610 and are contained in Term 13 Sonoma Water's water right Permit 16596 that is the subject of this Order.

2.3 Consultation with Other Agencies

Sonoma Water has consulted with the California Department of Fish and Wildlife (CDFW) and the North Coast Regional Water Quality Control Board (North Coast Water Board) regarding the TUCP and the effects of the proposed change.

CDFW staff indicated that the project's protective measures are adequate to avoid impacts to the threatened California tiger salamander and endangered Sebastopol meadowfoam, according to information contained in Sonoma Water's petition submittals.

3.0 PROCEDURAL REQUIREMENTS CONCERNING THE TEMPORARY URGENCY CHANGE PETITION

On March 12, 2025, the State Water Board issued and delivered to Sonoma Water a notice of the TUCP pursuant to Water Code section 1438, subdivision (a). Sonoma Water posted the notice in at least two conspicuous places in the locality to be affected by the change within two days after receipt of the notice. Sonoma Water then provided an affidavit containing proof of posting on March 14, 2025. In addition, the State Water Board posted the notice of the TUCP on its website and distributed the notice through its electronic notification system.

Any interested person may file an objection to a temporary urgency change. (Wat. Code, § 1438, subd. (d).) The State Water Board must promptly consider the objection and may hold a hearing on any objection. (*Id.*, § 1438, subd. (e).) The State Water Board exercises continuing supervision over temporary urgency change orders and may modify or revoke temporary urgency change orders at any time. (*Id.*, §§ 1439, 1440.) Temporary urgency change orders automatically expire 180 days after issuance, unless they are revoked, an earlier expiration date is specified, or they are renewed. (*Id.*, §§ 1440, 1441.)

Objections to Sonoma Water's TUCP were due by April 11, 2025. The State Water Board received no objections to the TUCP.

4.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Water Code section 1435 provides that a right holder who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the water right may petition for a conditional temporary change order. The State Water Board's regulations set forth the filing and other procedural requirements applicable to TUCPs. (Cal. Code Regs., tit. 23, §§ 805, 806.) The State Water Board's regulations also clarify that requests for changes to permits or licenses other than changes in point of diversion, place of use, or purpose of use may be filed, subject to the same filing and procedural requirements that apply to changes in point of diversion, place of use, or purpose of use. (*Id.*, § 791, subd. (e).)

Before approving a TUCP, the State Water Board must make the following findings: (1) the right holder 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. (Wat. Code, § 1435, subd. (b) (1-4).)

A temporary change order does not result in the creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the State Water Board. (Wat. Code, § 1440.)

4.1 Urgency of the Proposed Change

Under Water Code section 1435, subdivision (c), an “urgent need” means “the existence of circumstances from which the [State Water Board] may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented . . .”

Urgent need exists for the proposed change. Since 2013, the Russian River has experienced two multi-year droughts in 2013-2015 and 2020-2022, resulting in declarations of insufficient water supplies and subsequent water right curtailments in the Russian River watershed. Sonoma Water's water right permits were subject to those curtailments and mandatory water conservation measures. The Russian River is the primary water supply for Sonoma Water. On April 27, 2021, the Board of Supervisors for the County of Sonoma proclaimed a local emergency for the Sonoma County Operational Area due to drought conditions, and on June 16, 2021, the General Manager of Sonoma Water determined that due to drought conditions, an emergency existed that posed a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. The Department of Water Resources provided grant funding for the Santa Rosa Plain

Water Supply Resiliency Project, which includes funding for the Emergency ASR project at the Sebastopol Road well, under the Urban and Multibenefit Drought Relief Grant.

The Santa Rosa Plain Groundwater Sustainability Agency is responsible for SGMA implementation in the subbasin. It has developed a GSP that includes ASR as a key project for achieving and maintaining sustainable conditions within the subbasin. The purpose of the project is to provide supplemental water to help mitigate ongoing and future drought impacts to municipal water providers and provide ancillary benefits to other beneficial users of groundwater within the Santa Rosa Plain Groundwater Subbasin. Approval of this TUCP will authorize Sonoma Water to conduct the ASR pilot study at its existing well in the Santa Rosa Plain Groundwater Subbasin. When fully operational, the Sebastopol Road well is expected to have capacity to recharge and recover 250 acre-feet per year, helping to reduce the impacts of future drought emergencies. However, the total amount of recharge and recovery under the pilot study is anticipated to be up to 50 acre-feet of water.

In the absence of the proposed change, Sonoma Water could lose access to the funding from the Department of Water Resources and slow development of the ASR program that is designed to assist in providing relief from future drought emergencies. Depletion of surface water storage levels, Sonoma Water's primary water supply for its service area, could cause impacts to human health and welfare during times of water scarcity.

Water Code section 1435, subdivision (c) also states that the State Water Board shall not find a petitioner's need to be urgent if it concludes that the petitioner has not exercised due diligence either in petitioning for a change pursuant to provisions other than a TUCP or in pursuing that petition for change. In this case, Sonoma Water desires to test the efficacy of the recharge area prior to making a long-term commitment, and the 180-day period authorized by the TUCP is sufficient to conduct the proposed pilot study.

Given the short-term nature of the pilot study, the duration of the grant to conduct the pilot study and Sonoma Water's need to increase its water supply resiliency from reoccurring drought, the State Water Board finds that Sonoma County has exercised due diligence to this point and that there is an urgent need for the TUCP.

4.2 No Injury to Any Other Lawful User of Water

Under Decision 1610 and the terms and conditions of its associated water rights permits, Sonoma Water is required to maintain specified flows in the Russian River from its most upstream point of diversion to the Russian River's confluence with the Pacific Ocean. Therefore, because minimum flows will be present, it is anticipated that all other lawful users of water will still be able to divert and use the amounts of water that they are legally entitled to during the period specified in this temporary urgency change order.

Based on the information available, granting the TUCP will not result in injury to any other lawful user of water.

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

Prior to approval of a TUCP, the State Water Board must find that the proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses. In addition, the State Water Board has an independent obligation to consider the effect of approval of Sonoma Water's petitions on public trust resources and to protect those resources to the extent feasible and in the public interest. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) Public trust resources may include, but are not limited to, wildlife, fish, aquatic habitat, and recreation in navigable waterways, as well as fisheries located in non-navigable waterways. It is also the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall use their authority in furtherance of the purposes of the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). State agencies should not approve projects that would jeopardize the continued existence of any endangered species or threatened species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat that would prevent jeopardy. (Fish & G. Code, §§ 2053 & 2055.)

Under Decision 1610 and the terms and conditions of its associated water rights permits, Sonoma Water is required to maintain specified flows in the Russian River from its most upstream point of diversion to the Russian River's confluence with the Pacific Ocean for the protection of fish and wildlife and other instream beneficial uses. Additionally, Sonoma Water's Environmental Information form filed with the petition states that CDFW was consulted on the proposed project and CDFW staff indicated that the project's protective measures are adequate to avoid impacts to terrestrial species at the project's well location. Therefore, the proposed change will not cause unreasonable effects on fish, wildlife, or other instream beneficial uses.

The State Water Board finds that granting the proposed temporary change will not have an unreasonable effect on fish or wildlife, or other instream beneficial uses and public trust resources will be protected to the extent feasible and in the public interest.

4.4 The Proposed Change Is in the Public Interest

The TUCP is focused on authorizing temporary changes that will help Sonoma Water determine the efficacy of an ASR project in the Santa Rosa Plain Groundwater Subbasin. If the results of the ASR pilot study are favorable, the Sebastopol Road well is expected to have capacity to recharge and recover up to 250 acre-feet per year, helping to provide additional water supply and to reduce impacts to fish and wildlife during drought emergencies.

Therefore, the State Water Board finds that granting the proposed temporary change will be in the public interest.

5.0 COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The State Water Board must comply with any applicable requirements of the California Environmental Quality Act (CEQA) prior to issuance of any order approving a TUCP. (Cal. Code Regs., tit. 23, § 805.) Sonoma Water determined that CEQA was suspended as applied to the project under section 12 of Governor Newsom's March 28, 2022 Executive Order N-7-22. In addition, Sonoma Water determined that the project is exempt from CEQA requirements because it is consistent with the statutory exemption criteria for an emergency project, and it falls within a categorical exemption. Sonoma Water filed a Notice of Exemption (NOE) on January 30, 2023.

The State Water Board has reviewed the information submitted by Sonoma Water and has made its own independent finding that CEQA is suspended to the extent that it would otherwise apply to the Board's approval of the TUCP, and the requested change is exempt from CEQA for the following reasons:

- 1) In order to advance and demonstrate the feasibility of groundwater recharge projects, Paragraph 12 of Executive Order N-7-22 directs the State and Regional Water Boards to prioritize water right permits and other regulatory approvals needed for projects that enhance the ability of local agencies to capture high precipitation events for local storage or recharge, consistent with water right priorities and protections for fish and wildlife. The Governor suspended CEQA as applied to actions taken by state agencies to carry out Paragraph 12, and certain actions taken by local agencies to carry out that paragraph. Accordingly, CEQA is suspended as applied to the Board's conditional approval of Sonoma Water's TUCP, which is needed to carry out the pilot study for the ASR project.
- 2) Public Resources Code section 21080, subdivision (b)(4) provides that specific actions necessary to prevent or mitigate an emergency are exempt from CEQA. The ASR pilot project is necessary to prevent or mitigate a drought emergency by potentially expanding Sonoma Water's water supply resiliency by providing the ability to store and later extract water during dry surface water conditions. Future drought conditions are likely to be exacerbated by climate change and decreased imports from the Eel River. The Pacific Gas and Electric Company (PG&E) has filed a Final Draft Surrender Application and Decommissioning Plan for the Potter Valley Project, increasing the importance of further water resiliency. The Potter Valley Project has historically diverted water from the main stem of the Eel River to the Russian River watershed to the benefit of agriculture and communities in southern Mendocino, Sonoma and northern Marin counties. PG&E's surrender application was filed due to the aging infrastructure, which PG&E determined was uneconomic to maintain. As a result, less water will be imported into the East Fork Russian River compared to the recent past, further

increasing the need for Sonoma Water's ASR project and increased water resiliency.

- 3) California Code of Regulations, title 14, section 15304 provides that minor public or private alterations in the condition of land, water and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes are exempt from CEQA. The project would retrofit an existing production well, including appurtenances and downhole well components for aquifer recharge. Surplus water from Sonoma Water's existing transmission system would be used to test the capability of the ASR to recharge the aquifer. The proposed project would not change the design capacity of the well station, aqueduct, or impact mature trees or native vegetation.

The State Water Board will issue an NOE for the temporary urgency change petition within 5 days of issuance of this Order.

6.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1435. I conclude that, based on the available evidence:

1. The right holder, Sonoma Water, has an urgent need to make the proposed change;
2. The proposed change will not operate to the injury of any other lawful user of water;
3. The proposed change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
4. The proposed change is in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT: the petition filed by Sonoma County Water Agency (Sonoma Water) for a temporary urgency change in Permit 16596 is approved and effective from the date of this Order for a period of 180 days.

All existing terms and conditions of the subject permit remain in effect, except as temporarily amended by the following terms:

1. The Sebastopol Road well is added to this permit as a point of redirection to and withdrawal from underground storage. The Sebastopol Road well is located as follows:
 - a. California Coordinate System of 1983, Zone 3, North 1,911,494 feet and East 6,332,008 feet, being within the northeast quarter of the southeast quarter of Section 36, T7N, R9W, MDB&M.
 - b. The rate of redirection to underground storage under this permit at the Sebastopol Road diversion facility shall not exceed 1.2 cfs, and the total amount of water redirected to underground storage shall not exceed 50 acre-feet.
2. The Santa Rosa Plain Groundwater Basin is added to this permit as a place of underground storage.
3. Sonoma Water shall measure and record the amount of water redirected to underground storage and withdrawn from underground storage under this permit. Within 60 days of the expiration of this Order, Sonoma Water shall submit a report documenting the quantity of water placed in underground storage and the quantity later recovered under the provisions of this Order.
4. This Order does not authorize any act that results in the taking of a candidate, threatened or endangered species, or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C.A. § 1531 et seq.). If a "take" will result from any act authorized under this Order, Sonoma Water shall obtain authorization for an incidental take permit prior to operation of the project. Sonoma Water shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary urgency changes authorized under this Order.

5. The State Water Resources Control Board reserves jurisdiction to supervise the temporary urgency changes under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Robert P. Cervantes, Acting Assistant Deputy Director
Division of Water Rights*

Dated: AUG 18 2025