

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

DIVISION OF WATER RIGHTS

**In the Matter of Permits 12947A, 12949, 12950, and 16596
(Applications 12919A, 15736, 15737, 19351)**

Sonoma County Water Agency

**ORDER MODIFYING THE MAY 1, 2015 ORDER THAT APPROVED
PETITIONS FOR TEMPORARY URGENCY CHANGES TO PERMIT TERMS
AND CONDITIONS IN RESPONSE TO DROUGHT CONDITIONS**

SOURCE: (1) East Fork Russian River tributary to Russian River
(2) Dry Creek tributary to Russian River
(3) Russian River thence the Pacific Ocean
COUNTIES: Sonoma and Mendocino Counties

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 INTRODUCTION

This order modifies the State Water Resources Control Board's (State Water Board) May 1, 2015 Order (May 1 Order) that took action on a temporary urgency change petition (TUCP) filed by Sonoma County Water Agency (SCWA) on April 22, 2015 (April 22 Petition). The April 22 Petition requested approval of a change to the subject permits to temporarily reduce the Russian River instream flow requirements to address low storage conditions in Lake Mendocino. The May 1 Order conditionally approved the following changes requested by SCWA:

- (1) From May 1, 2015 to October 27, 2015, reduce instream flow requirements for the upper Russian River (from the confluence with the East Fork Russian River to the confluence with Dry Creek) from 185 cubic feet per second (cfs) to 75 cfs.
- (2) From May 1, 2015 to October 27, 2015, reduce instream flow requirements for the lower Russian River (downstream of the confluence with Dry Creek) from 125 cfs to 85 cfs.

The May 1 Order required the minimum instream flow requirements be measured based on a 5-day running average of average daily flow measurements, provided that instantaneous flows on the upper Russian River shall be no less than 65 cfs and on the lower Russian River shall be no less than 75 cfs.

On May 27, 2015, SCWA provided new information regarding the anticipated inflow to Lake Mendocino and requested additional changes to instream flow requirements (May 27 Request). This Order considers the new information and following requested changes:

- (1) From June 16, 2015 to October 27, 2015, reduce instream flow requirements for the upper Russian River (from the confluence with the East Fork Russian River to the confluence with Dry Creek) to a minimum of 25 cfs.
- (2) From June 16, 2015 to October 27, 2015, reduce instream flow requirements for the lower Russian River (downstream of the confluence with Dry Creek) to a minimum of 50 cfs.

The May 27 Request proposes that compliance with these reduced minimum instream flow requirements be measured based on a 24-hour mean instream flow criterion. The 24-hour instream flow criterion is intended to ensure a conservative operational buffer with respect to flow management, thereby allowing SCWA to conserve more water in Lake Mendocino.

The May 27 Request is intended to address the significant reductions in inflow from the Potter Valley Project (PVP) resulting from a Federal Energy Regulatory Commission (FERC) order approving Pacific Gas and Electric's (PG&E's) temporary variance request. The additional flow reduction in the upper Russian River is intended to prevent significant depletion of storage in Lake Mendocino and potential elimination of water supplies for 2015. Such depletion in storage and reduction to or elimination of water supplies would cause serious impacts to human health and welfare and reduce water supplies needed for fishery protection and stable flows in the upper Russian River. The request for the lower Russian River is intended to protect fishery resources in Dry Creek.

2.0 BACKGROUND

2.1 Water Right Permits

SCWA's May 27 Request involves the following permits:

- Permit 12947A (Application 12919A) for direct diversion of 92 cfs from the East Fork Russian River and storage of 122,500 acre-feet per annum (afa) in Lake Mendocino from January 1 through December 31 of each year;
- Permit 12949 (Application 15736) for direct diversion of 20 cfs from the Russian River at the Wohler and Mirabel Park Intakes near Forestville from January 1 through December 31 of each year;
- Permit 12950 (Application 15737) for direct diversion of 60 cfs from the Russian River at the Wohler and Mirabel Park Intakes from April 1 through September 30 of each year; and
- Permit 16596 (Application 19351) for direct diversion of 180 cfs from the Russian River from January 1 to December 31 of each year and storage of 245,000 afa in Lake Sonoma from October 1 of each year to May 1 of the succeeding year.

Permits 12947A, 12949, 12950, and 16596 contain the same water-year classification definitions. The water year classifications (Normal, Dry or Critical) were established in State Water Board Water Right Decision 1610 and are based on cumulative inflow into Lake Pillsbury beginning October 1 of each year. Although Lake Mendocino storage is much lower than average, cumulative inflow into Lake Pillsbury during this water year has been of a sufficient volume such that, under Decision 1610, 2015 is currently classified as a Normal year.

Term 20 of SCWA's Permit 12947A requires SCWA to pass through or release from storage at Lake Mendocino sufficient water to maintain specified instream flows for the protection of fish and wildlife, and for the maintenance of recreation in the Russian River. For normal water supply conditions, the minimum flow requirements are 185 cfs for the upper Russian River and 125 cfs for the lower Russian River.

Term 17 of both Permit 12949 and Permit 12950 requires SCWA to allow sufficient water to bypass the points of diversion at the Wohler and Mirabel Park Intakes on the Russian River to maintain 125 cfs to the Pacific Ocean during normal water supply conditions.

Similarly, Term 13 of Permit 16596 requires SCWA to maintain 125 cfs in the lower Russian River during normal water supply conditions, unless the water level in Lake Sonoma is below elevation 292.0 feet with reference to the National Geodetic Vertical Datum of 1929, or unless prohibited by the United States Government.

As noted in section 1.0, the May 1 Order reduced the minimum flow requirements for the upper and lower Russian River. The reduced flow values were based on a projected storage analysis provided by SCWA. The projected storage analysis prepared for the April 22 Petition was completed using SCWA's Russian

River Water System Model with the following assumptions: (1) Decision 1610 minimum instream flow requirements; (2) 2013 hydrology; (3) current Russian River system losses; and (4) PVP operations based on the 2004 amended license issued by FERC.

2.2 2015 Drought Conditions and Water Supply Effects

The State of California is in the midst of an unprecedented drought.

By proclamations dated January 17, 2014 and April 25, 2014 and Executive Orders B-26-14, B-28-14, and B-29-15, Governor Edmund G. Brown, Jr. (Governor) declared a state of emergency in California due to the ongoing extraordinary drought and directed state agencies to take various actions to help manage these drought conditions.

Since issuance of the May 1 Order, additional changes to the PVP operations have occurred that have exacerbated the current drought conditions. On May 18, 2018, FERC approved a flow variance request to operate the PVP under dry year summer flow requirements (May 18 FERC Order). The May 18 FERC Order authorizes a reduction in East Fork Russian River flows from 40 cfs to 25 cfs and identifies Lake Pillsbury storage threshold conditions under which flows could be reduced to as low as 5 cfs. In addition, the May 18 FERC Order requires PVP coordination of contract deliveries to the Potter Valley Irrigation District (PVID) to more closely match demands. This change and the reduction of the minimum instream flow requirements in the East Fork Russian River have resulted in much lower Lake Mendocino inflows than were anticipated when the State Water Board issued the May 1 Order. The May 18 FERC Order approves the reduction to instream flows through June 18, 2015. Based on comments received during the public notice period and the available data, FERC will take action, as warranted, to extend the variance approval beyond June 18, 2015.

Figure 1 below shows the flows of the East Fork Russian River at the United States Geological Survey (USGS) gage at Calpella (which is downstream of PVID's diversions and upstream of Lake Mendocino) between May 18 and June 8 for 2013 and 2015. Since approval of the May 18 FERC Order, flows at the Calpella gauge have been significantly lower than what was observed in previous years. Between May 19 and June 8, 2015 storage in Lake Mendocino has decreased by 1,700 acre-feet (af) (Lake Mendocino saw a reduction of just 64 af during the same time period in 2013). As shown below, PG&E has begun the process of decaying the flows in the East Fork Russian River, and will continue to do so until flows reach the minimum flow as authorized in the May 18 FERC Order.

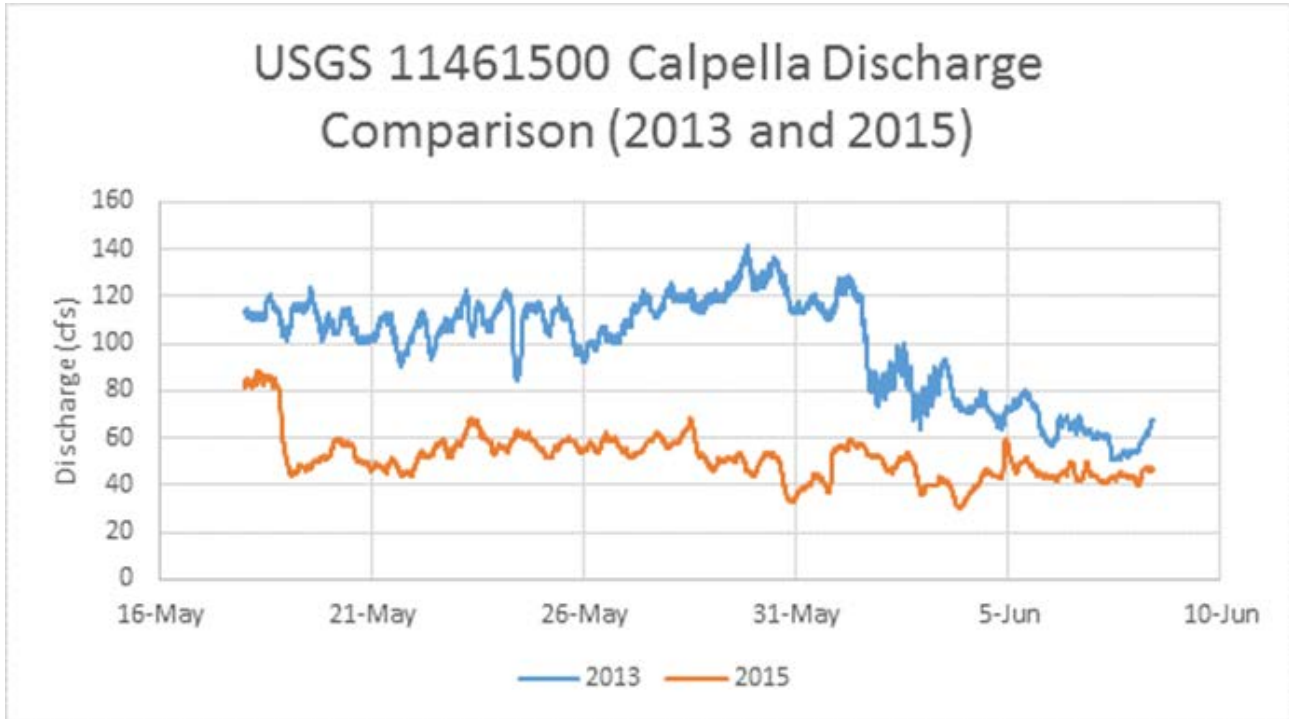


Figure 1: Comparison of Discharge at USGS Calpella Gage

The projected storage analysis prepared by SCWA for the April 22 Petition assumed hydrologic conditions similar to those that occurred during 2013 for projecting Lake Mendocino storage levels through the summer and late fall of 2015. 2013 was selected because it had similar hydrology as 2015 and PVP and the Russian River had the same water supply condition designation and minimum instream flow requirements in both years. In light of the changes described above, SCWA prepared and submitted a subsequent projected storage analysis as part of the May 27 Request (May 27 Projected Storage Analysis). The May 27 Projected Storage Analysis was completed using SCWA's Russian River Water System Model with the following assumptions: (1) minimum instream flows in the upper Russian River of 75 cfs from May 1 to December 31; (2) 2013 hydrology; (3) current Russian River system losses; and (4) PVP operations based on the May 18 FERC Order approving PG&E's request to operate under dry water year conditions. The May 27 Projected Storage Analysis shows Lake Mendocino storage is expected to decline to below 25,000 af by October 1, 2015, due to reduced PVP inflows, releases required to meet downstream water demands, and anticipated minimum instream flow requirements on the Russian River and, if dry conditions continue, storage levels could be as low as 10,000 af on January 1, 2016.

These extremely low projected storage levels and possible elimination of water supply in Lake Mendocino could cause serious impacts to human health and welfare, threatened and endangered Russian River fish species, and water-supply in Mendocino County and the Alexander Valley in Sonoma County, as well as harm Lake Mendocino and Russian River recreation. Therefore, SCWA proposes to further reduce the instream flow requirements on the upper Russian River, which are maintained by reservoir releases, to preserve water in Lake Mendocino. SCWA estimates the requested change would preserve approximately 7,000 af of water storage in Lake Mendocino, resulting in almost 32,000 af of storage on October 1.

SCWA is also requesting changes to the minimum instream flow requirements on the lower Russian River, downstream of its confluence with Dry Creek to the Pacific Ocean. These changes are requested because the reduced minimum instream flows being requested on the upper Russian River will provide significantly less contribution to meet minimum instream flow requirements in the lower Russian River. Consequently, increased releases from Lake Sonoma into Dry Creek could be necessary to maintain 85 cfs on the lower Russian River. However, increased releases into Dry Creek are limited by the Incidental Take Statement

contained in the September 24, 2008, National Marine Fisheries Service (NMFS) Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, SCWA, and the Mendocino County Russian River Flood Control and Water Conservation Improvement District in the Russian River watershed (Biological Opinion). The Incidental Take Statement restricts releases from Lake Sonoma into Dry Creek because they can result in flows that are too high for optimal habitat for juvenile salmonids. Therefore, SCWA proposes to reduce the minimum instream flow requirements for the lower Russian River to protect fishery resources in Dry Creek.

3.0 COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Ordinarily, 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, or modifications thereto, pursuant to Water Code section 1435. (Cal. Code Regs., tit. 23, § 805.) However, the Governor's January 17, 2014 Proclamation concluded that strict compliance with CEQA would "prevent, hinder, or delay the mitigation of the effects of the emergency." Accordingly, as authorized by Government Code section 8571, item 9 of the Governor's Proclamation suspends CEQA, and the regulations adopted pursuant to it, to the extent that CEQA would otherwise apply to specified actions necessary to mitigate the effects of the drought, including the actions described in item 8 of the Governor's Proclamation. Item 8 requires the State Water Board to consider modifying requirements for reservoir releases or diversion limitations that were established to implement a water quality control plan. The subject instream flow requirements implement the Water Quality Control Plan for the North Coast Region because they protect instream beneficial uses that are designated in the plan, including recreation, cold and warm freshwater habitat, and wildlife habitat.

The Governor's Executive Order B-29-15, dated April 1, 2015, continued the state of emergency and concluded that the suspension of CEQA under the January 17, 2014 Proclamation is to remain in effect until May 31, 2016. Accordingly, CEQA is suspended to the extent that it would otherwise apply to the TUCP and subsequent modifications thereto.

In addition, the changes sought by the May 27 Request are consistent with the following Statutory and Categorical CEQA exemptions for the following reasons:

- 1) Information provided by SCWA demonstrates that continued releases of water pursuant to requirements in the May 1 Order could cause storage levels in Lake Mendocino to decline to unsafe levels. If storage in Lake Mendocino is depleted there will be serious impacts to human health and welfare and water will not be available to protect aquatic life, including threatened and endangered species in the Russian River. Approval of the May 27 Request is therefore necessary to prevent and mitigate loss of, or damage to, the environment, fishery resources, property, public health, and essential public services. Accordingly, the project is statutorily exempt from CEQA because it is necessary to prevent or mitigate an emergency. (Pub. Resources Code, § 21080, subd. (b)(4); Cal. Code Regs., tit. 14, § 15269, subd. (c).)
- 2) The proposed action consists of the operation of existing facilities involving negligible or no expansion of use beyond that existing, and accordingly is categorically exempt from CEQA under a Class 1 exemption. (Cal. Code Regs., tit. 14, § 15301.) The proposed action will be within the range of minimum instream flows established by Decision 1610.
- 3) A Class 7 exemption "consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment." (Cal. Code Regs, tit. 14, § 15307.) The proposed action on the upper Russian River will ensure the maintenance of a natural resource, i.e., the instream resources of the Russian River, by reserving water in Lake Mendocino to prevent harm to, and protect habitat for listed Russian River salmonid fisheries. The proposed action on the lower Russian River will also ensure the maintenance of a natural resource, i.e, the instream resources of Dry Creek, by avoiding impacts to salmonids consistent with the

Incidental Take Statement. Accordingly, these changes are categorically exempt from CEQA pursuant to a Class 7 exemption.

- 4) A Class 8 exemption “consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.” (Cal. Code Regs., tit. 14, § 15308.) The proposed action will ensure the maintenance of the environment, i.e., the instream environment of the Russian River, in the same way as stated for the Class 7 exemption.

4.0 PROCEDURAL REQUIREMENTS CONCERNING THE TUCP

Pursuant to Water Code section 1438, the State Water Board may issue a temporary urgency change order in advance of the required notice. The State Water Board issued and delivered to SCWA, a notice of the temporary urgency change order pursuant to Water Code section 1438, subdivision (a) on May 15, 2015. Pursuant to Water Code section 1438, subdivision (b)(1), SCWA was required to publish the notice in a newspaper having a general circulation, and that is published within the counties where the points of diversion lie. SCWA published the notice on June 3, 2015, in the Ukiah Daily Journal and on June 4, 2015, in the Press Democrat. The State Water Board posted the notice of the temporary urgency change, the April 22 Petition, and the May 27 Request on its website. The State Water Board also distributed public notices of the April 22 Petition and the May 27 Request through an electronic notification system.

To date State Water Board has received four comments or objections. This Order does not provide written responses to comments and objections due to the urgent nature of the request and the limited time to respond to the comments and objections received. Although written responses are not being provided at this time, the comments, objections, and issues raised were reviewed prior to reaching this decision.

5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Water Code section 1435 provides that a permittee or licensee who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the permit or license 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, or any modification thereto. (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 temporary urgency change, or modifications thereto, the State Water Board must make the following findings (Wat. Code, § 1435, subd. (b)(1-4).):

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.

The State Water Board exercises continuing supervision over temporary urgency change orders and may modify or revoke temporary urgency change orders at any time. (Wat. Code §§ 1439, 1440). Temporary urgency change orders expire 180 days after issuance, unless they are revoked or an earlier expiration date is specified. (*Id.*, § 1440). The State Water Board may renew temporary urgency change orders for a period not to exceed 180 days. (*Id.*, § 1441.)

5.1 Urgency of the Proposed Change

Under Water Code section 1435, subdivision (c), an “urgent need” means “the existence of circumstances from which the 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”

The May 18 FERC order has and will result in changes to Lake Mendocino inflows that were not anticipated when SCWA filed and the State Water Board approved the April 22 Petition. Specifically, the reduction of the minimum instream flow requirements in the East Fork Russian River has resulted in much lower Lake Mendocino inflows and Lake Mendocino inflows will continue to decline as the PVP implements operational changes to more closely coordinate PVID contract deliveries with demands. As described in the May 27 Request and section 2.2 of this order, Lake Mendocino reservoir levels are projected to reach extremely low conditions that may prevent SCWA from continuing to make the reservoir releases that are necessary to support the various beneficial uses that rely on these releases in the Russian River. If upcoming dry conditions persist and significant storm events are delayed or do not occur in the upcoming Water Year 2016, then carryover storage in Lake Mendocino from 2015 will be crucial for the continued protection of the Russian River salmonid fishery and water supply reliability. Specifically, at low storage conditions, there would be greater risk of insufficient water supplies to support: (a) survival of Russian River salmonid species that are listed under the Endangered Species Act, (b) agricultural and municipal uses that depend on the Russian River, and (c) river-based recreation. Without the proposed May 27 requested changes, the current minimum instream flow requirements would require releases of water from Lake Mendocino at levels that would risk significant depletion of storage and potential elimination of water supplies for water uses in Mendocino County and northern Sonoma County (above the confluence with Dry Creek). Such depletion in storage and reduction in or elimination of water supplies would cause serious impacts to human health and welfare, and reduce water supplies needed for fishery protection and stable flows in the upper Russian River. Accordingly, provided the May 18 FERC order is approved beyond June 18, an urgent need exists for the proposed change in minimum instream flow requirements on the upper Russian River.

An urgent need also exists for the proposed change in minimum instream flow requirements on the lower Russian River because, without that change, reductions in the upper Russian River flows would require an increase in Lake Sonoma releases into Dry Creek to meet lower Russian River flow requirements. The Biological Opinion found that high Dry Creek flows from June through October result in sub-optimal habitat conditions for juvenile salmonids and issued an Incidental Take Statement restricting releases from Lake Sonoma to Dry Creek from June through October each year. Therefore, higher Dry Creek flows could be detrimental to the fisheries in Dry Creek and result in violations of the Incidental Take Statement. In addition, reductions in the lower Russian River minimum instream flow requirements will conserve storage in Lake Sonoma during drought conditions. Considering the severe drought conditions and the Governor's Emergency Drought Proclamation, conservation of water in Lake Sonoma is prudent.

5.2 No Injury to Any Other Lawful User of Water

Under this Order, SCWA will be required to maintain specific flows in the Russian River from its most upstream point of diversion to the river's confluence with the ocean. Therefore, because these minimum flows will be present, it is anticipated that all other lawful users of water will still be able to divert and use any water to which they may be legally entitled during the period specified in this Order. As a general rule, appropriative water right holders with rights to divert water below Lake Mendocino and Lake Sonoma only are entitled to divert natural and abandoned flows, and riparian water right holders only are entitled to divert natural flows; appropriative and riparian right holders are not entitled to divert water previously stored by

SCWA that is released for use downstream, including stored water that is released for purposes of meeting instream flow requirements. (*State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 674, 738-743.) Accordingly, SCWA is not obligated to supply water stored in Lake Mendocino to other users of water, except to the extent the users hold permits issued under the Sonoma County reservation established in Decision 1030 and Order WR 74-30. The reservation only applies, however, to the use of water within the Russian River Valley, as that area is defined by a map prepared by the U.S. Army Corps of Engineers (Decision 1030, pp. 9, 46-47), and SCWA is not obligated to release stored water to satisfy demand under the reservation to the extent that retention of stored water is necessary to ensure satisfaction of the minimum instream flows required under Permit 12947A (Order WR 74-30, p. 13). In addition, no appropriators have alleged that their entitlement to water under the Sonoma County reservation will be impaired by the proposed changes. For these reasons, other legal users of water will not be injured to the extent that SCWA releases less previously stored water as a result of the changes. Nevertheless, SCWA conducted an evaluation of potential impacts to shallow alluvial wells adjacent to the Russian River that may occur as a result of reducing minimum instream flow requirements in the upper Russian River from 75 cfs to 25 cfs. The evaluation was based on a review of the USGS stream gage at Healdsburg and concluded that river stage at 25 cfs is approximately three inches lower than river stage at 75 cfs. For purposes of the evaluation, SCWA assumed the flow at Healdsburg would be approximately 45 cfs when the minimum flow requirement is 25 cfs and 90 cfs when the minimum flow requirement is 75 cfs due to operational buffers. There is no information in the record that indicates that alluvial wells adjacent to the Russian River would be impacted by lowering the river stage by three inches. Notwithstanding the foregoing, SCWA and the State Water Board Division of Drinking Water are currently and will continue to coordinate on public outreach to water systems in Sonoma County that divert from the upper Russian River as a means of monitoring and responding to unanticipated water supply concerns. Based on the information available, granting the May 27 Request will not result in any injury to any other lawful user of water. Pursuant to Water Code section 1439, the State Water Board will supervise diversion and use of water under this temporary change order for the protection of all other lawful users of water and instream beneficial uses.

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

Although flows in the Russian River will be reduced upon approval of the May 27 Request, which could adversely affect fish, wildlife, or other instream beneficial uses, prevention of the depletion of storage in Lake Mendocino is crucial to avoid greater harm to instream beneficial uses, including threatened and endangered fish species. Reductions in the minimum instream flow requirements will improve carryover storage in Lake Mendocino, which will provide significant benefit to all instream beneficial uses if dry conditions persist into Water Year 2016. Specifically, conserved storage will allow enhanced management of Russian River flows in the fall, winter and next spring for the benefit of salmon migration, spawning, and rearing. It is possible that the reduced flows may impair some instream beneficial uses, principally recreation, in the Russian River. However, any effects associated with such flow reductions would not be unreasonable, considering the potential catastrophic impacts to fish, wildlife and other instream beneficial uses that could occur with the current release levels, if the current release levels result in the draining of Lake Mendocino and the dewatering of the upper Russian River.

SCWA has consulted with the California Department of Fish and Wildlife (CDFW), NMFS, and the North Coast Regional Water Quality Control Board (Regional Water Board) regarding the May 27 Request. The Regional Water Board did not object to the proposed May 27 Request and believes the terms and conditions requiring continuous water quality monitoring included in the May 1 Order are appropriate. CDFW stated that while further reductions are not optimal, they do not object to implementation of the proposed changes. CDFW further stated that the timing of the initiation of the proposed reduction (June 16) will allow the majority of the out-migrating salmonids to exit the system and should not cause significant impacts to the warm water fish, reptiles, or amphibians remaining in the Russian River. NMFS indicated support of a plan to conserve water storage in Lake Mendocino and does not oppose the requested changes. Like CDFW, NMFS recommends the flows not be reduced until after June 15, to provide adequate flows for out-migrating salmon and steelhead. This Order will retain the requirements from the May 1 Order for: (1) monitoring and

reporting numbers of adult salmon and steelhead; (2) consulting with CDFW and NMFS regarding flow increases to support successful migration of salmon and steelhead; and (3) limiting ramping rates below Lake Mendocino to avoid fish stranding.

To inform the review and approval of the May 27 Request, and the State Water Board's continuing supervision of the diversion and use of water under this temporary change order pursuant to Water Code section 1439, SCWA will continue to be required to report on consultations with CDFW, NMFS, and the Regional Water Board. In addition, to ensure beneficial use of water resources to the fullest extent possible and to prevent waste of water, SCWA will continue to be required to provide weekly updates to the State Water Board, CDFW, NMFS, and the Regional Water Board regarding the current hydrologic and environmental (water quality and fishery) conditions of the Russian River (Term 15). This information will assist the State Water Board in determining whether additional actions are necessary.

5.4 The Proposed Change is in the Public Interest

Provided the May 18 FERC Order is extended beyond June 18, the proposed changes in the upper Russian River minimum instream flow requirements will help conserve stored water in Lake Mendocino so that water can be released to maintain instream flows for the benefit and protection of all uses of Russian River water, including the salmonid fisheries in the Russian River. It is in the public interest to preserve these water supplies for these beneficial uses under present severe drought hydrologic conditions. Furthermore, according to SCWA, the preserved storage will help mitigate reduced transfers of Eel River water to the East Fork Russian River due to repair activities to the PVP penstocks that are scheduled to occur between November 2015 and March 2016. As a means of further preserving Lake Mendocino water supplies, this order retains Term 19 to facilitate SCWA storage release operations to meet minimum instream flow requirements with minimal operational buffers.

The proposed changes in the lower Russian River minimum instream flow requirements will support ecological values in Dry Creek by preventing higher Dry Creek flows that could be necessary if the State Water Board were to approve only the requested changes in the upper Russian River requirements. As discussed above, higher Dry Creek flows would impair habitat conditions for juvenile salmonids and deplete storage in Lake Sonoma. It is in the public interest to minimize impacts to salmonids and conserve water supplies in Lake Sonoma during the current drought. Reductions in diversions at SCWA's facilities can also serve to increase flows in the lower Russian River and prevent the need for higher Dry Creek flows. Accordingly, the order retains Term 20 requiring SCWA and its contractors to conserve water. In addition, SCWA will continue to implement water use efficiency programs that align with the California Urban Water Conservation Council's Best Management Practices and comply with the requirements of SBx7-7.

6.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the findings required by Water Code section 1435, subdivision(b).

I conclude that, based on the available evidence:

1. The permittee has an urgent need to make the changes proposed by the May 27 Request;
2. The proposed changes will not operate to the injury of any other lawful user of water;
3. The proposed changes will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and,
4. The proposed changes are in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT: the May 1 Order is affirmed, subject to the modifications and additional changes set forth below. Changes to the May 1 Order are provided in **bold underline** and **~~bold strikethrough~~**.

IT IS ORDERED THAT: the Petition filed by Sonoma County Water Agency (SCWA) for a temporary urgency change in Permits 12947A, 12949, 12950 and 16596 is approved and effective until **October 27, 2015** ~~180 days from the date of this Order~~.

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

1. The minimum instream flow requirements in the Russian River, as specified in Term 20 of Permit 12947A, Term 17 of Permits 12949 and 12950, and Term 13 of Permit 16596, shall be modified as follows:
 - a. Minimum instream flow in the upper Russian River (from its confluence with the East Fork of the Russian River to its confluence with Dry Creek) shall remain at or above 75 cfs **through June 15, 2015 and remain at or above 25 cfs starting June 16, 2015**.
 - b. Minimum instream flow in the lower Russian River (from its confluence with Dry Creek to the Pacific Ocean) shall remain at or above 85 cfs **through June 15, 2015 and remain at or above 50 cfs starting June 16, 2015**.
 - c. For purposes of compliance with this term, the minimum instream flow requirements shall be measured based on a **24-hour mean instream flow criterion** ~~5-day running average of average daily stream flow measurements, provided that instantaneous flows on the upper Russian River shall be no less than 65 cfs and on the lower Russian River shall be no less than 75 cfs.~~

In the event the East Fork Russian River minimum flow requirements or Potter Valley Project operational stipulations required pursuant to the May 18 FERC Order are not extended through October 27, 2015, SCWA shall immediately initiate consultations with the Deputy Director of Water Rights.

2. SCWA shall monitor and record daily numbers of adult salmon and steelhead moving upstream past the life cycle monitoring station in Dry Creek (when operable) beginning no later than September 1, 2015, and continuing through the term of this Order. SCWA shall include these numbers in weekly reports required in Term 15.
3. SCWA shall monitor numbers of adult salmon and steelhead at known spawning sites and in representative deep pools in the Upper Russian River (Lake Mendocino to Healdsburg) on a weekly basis after the number of adult salmon and steelhead counted at Dry Creek exceeds 100 fish. Weekly surveys shall continue until expiration of the Order, or when sustained flow at Healdsburg is above 150 cfs, whichever is earlier.
4. Beginning October 1, 2015, if adult salmon and steelhead can enter the Russian River estuary and suitable water clarity allows snorkel surveys, SCWA shall monitor numbers of adult salmon and steelhead in representative deep pools in the Lower Russian River downstream of the Mirabel inflatable dam on a weekly basis continuing through the term of this Order.
5. After a cumulative seasonal total of 100 adult salmon and steelhead move upstream past the life cycle monitoring station in Dry Creek, or on November 1st, whichever is earlier, SCWA shall consult with the National Marine Fisheries Service (NMFS) and the California Department of Fish and Wildlife (CDFW) regarding the possibility of increasing instream flow at the USGS gages at both Hopland (No.11462500) and Healdsburg (No. 11464000) to a level not exceeding 100 cfs, and at the USGS gage at Hacienda (No.11467000) to a level not to exceed 135 cfs. Consultations shall occur every two weeks and SCWA

- shall submit a summary report of consultation details and any increases to the minimum flows to the Deputy Director within one week of each consultation meeting.
6. SCWA shall consult with NMFS and CDFW regarding any necessary revisions to Terms 2 through 5. SCWA shall submit a summary report of consultation details to the Deputy Director within one week of any consultation meeting. Upon consultation with NMFS and CDFW, any necessary revisions to the terms and conditions shall be made upon approval by the Deputy Director.
 7. Reporting of fisheries monitoring tasks described in Terms 2 through 6 shall be submitted to the Deputy Director by April 1, 2016 in accordance with NMFS and CDFW annual reporting requirements as more fully described in the Biological Opinion.
 8. To protect against stranding of fish when releases from Lake Mendocino are reduced under this Order, flow in the East Fork Russian River immediately below Coyote Dam shall not be reduced by more than 25 cfs per hour. Ramping rates specified in this term may be revised upon consultation with NMFS and CDFW. SCWA shall submit a summary report of consultation details to the Deputy Director within one week of each consultation meeting.
 9. 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 and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this Order, the permittee shall obtain authorization for an incidental take permit prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary urgency change authorized under this Order.
 10. Monitoring shall be conducted to determine the water quality effects and the effects to availability of aquatic habitat for salmonids resulting from the approved temporary urgency change. Mainstem Russian River and estuary monitoring shall include continuous monitoring of temperature, dissolved oxygen (DO), pH, and specific conductance at multiple stations from Ukiah to Jenner.
 - a. For the duration of this Order, monitoring on the mainstem Russian River shall occur at three, multi-parameter "permanent" water quality sondes on the Russian River at USGS stream gages located at Hopland, Diggers Bend near Healdsburg, and Hacienda Bridge. These three sondes are referred to as "permanent" as they are maintained as part of SCWA's early warning detection system in coordination with the United States Geological Survey (USGS) on its "Real-time Data for California" website. As of March 2014, the sonde at SCWA's river diversion facility (RDS) at Mirabel was removed due to several construction projects; therefore it will not be included in the 2015 monitoring effort. SCWA, in cooperation with the USGS, shall also operate three seasonal sondes with real-time telemetry at USGS gages at Cloverdale station (north of Cloverdale at Commisky Station Road), Jimtown (at the Alexander Valley Road bridge), and at Johnson's Beach (Guerneville). The sonde at the Cloverdale gage collects DO and temperature, the sonde at the Jimtown gage collects pH, temperature, DO, specific conductance and turbidity, and the sonde at Johnson's Beach collects pH, temperature, DO, specific conductance and turbidity. Data from these locations is available on the USGS "Real-time Data for California" website.
 - b. Monitoring in the mainstem Russian River Estuary shall be conducted in accordance with the current "Water Quality Monitoring Plan for the Russian River Estuary Management Project."
 - c. Monitoring on the East Fork Russian River, shall occur at a seasonal sonde approximately 1/3 mile (0.33 mi) downstream from Lake Mendocino, and shall record hourly measurements of water temperature, DO, specific conductance, pH, and turbidity. The monitoring site will be accessed by foot.
 11. SCWA shall monitor five surface-water sites in the Russian River Estuary in accordance with the current "Water Quality Monitoring Plan for the Russian River Estuary Management Project".

12. Before June 15, 2015, SCWA shall consult with the North Coast Regional Board to discuss possible water quality impacts of the reduced flows and water quality monitoring activities. SCWA shall submit a summary report of consultation details and a description of any modifications to the monitoring activities to the Deputy Director within one week of the consultation meeting. Upon consultation with the Regional Board, any necessary revisions to Terms 10 and 11 shall be made upon approval by the Deputy Director.
13. SCWA shall provide the summary data from the permanent water quality sondes required in Term 10a and nutrient/bacterial/algal sampling in Term 11 (as data becomes available) to the Deputy Director for the State Water Board and the Executive Director for the Regional Board in the weekly hydrologic status report required in Term 15. If any water quality issues of concern are observed from the continuous monitoring after June 15, 2015, SCWA or the North Coast Regional Board can initiate additional consultation. SCWA shall submit a summary report of consultation details to the Deputy Director within one week of each consultation meeting. If no additional consultation is necessary; SCWA shall submit an explanation to the Deputy Director within one week after the conclusion of the effective period of this Order. Upon consultation with the Regional Board, any necessary revisions to Terms 10 and 11 shall be made upon approval by the Deputy Director.
14. SCWA shall summarize all water quality data collected pursuant to Terms 10 and 11 during the term of this Order. The summary report shall include an evaluation of whether, and to what extent, the reduced flows authorized by the Order caused any impacts to water quality, including any water quality impacts affecting recreation or the availability of aquatic habitat for salmonids. The report shall be submitted to the Deputy Director by April 1, 2016.
15. SCWA shall report to the Deputy Director of Water Rights and the Executive Director of the North Coast Regional Board on a weekly basis regarding the current hydrologic condition of the Russian River system, including current Lake Mendocino reservoir level, the rate of decline for Lake Mendocino, a 16-day cumulative rainfall forecast, current inflow from Potter Valley, fish counts, and a summary of the available water quality data, including bacteria indicators.
16. The State Water Board reserves jurisdiction to supervise the temporary urgency change 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.
17. SCWA shall immediately notify the State Water Board if any significant change in storage conditions in Lake Mendocino occurs that warrants reconsideration of this Order.
18. SCWA shall provide a written update to the Deputy Director by April 1, 2016, regarding activities and programs being implemented by SCWA and its water contractors to assess and reduce water loss, promote increased water use efficiency and conservation, and improve regional water supply reliability.
19. To facilitate releases of Lake Mendocino stored water with minimal operational buffers, SCWA shall coordinate with the Mendocino County Russian River Flood Control and Water Conservation Improvement District (District) regarding implementation of protocols for real time 1 and 3 day advance forecasts of total diversions by all of the District's customers under all bases of right. SCWA shall provide an update to the Deputy Director regarding the outcome of consultation and the effectiveness of reporting by April 1, 2016.
20. SCWA shall submit evidence of compliance with any future regulatory framework implementing the conservation requirements of the Governor's April 1, 2015 executive Order (future regulatory framework) or a water demand reduction plan (Plan) for all customers that beneficially use water diverted and /or stored under these rights or customers otherwise subject to the temporary changes authorized by this order (excluding customers found on the De Minimus list provided by SCWA on April 29, 2015, whose diversions amount to less than one percent of SCWA's total water distributed), as follows:
 - a. For SCWA customers that are subject to the future regulatory framework, SCWA shall submit written confirmation to the Deputy Director to demonstrate whether and how said customer is A) subject to the future regulatory framework and B) in compliance with all applicable conservation and reporting requirements therein. The written confirmation for

part A shall be submitted within 2 weeks after the effective date of the future regulatory framework and updated within 2 weeks of any new such customer being added. The written confirmation for part B shall be submitted within 180 days of the date of order issuance.

- b. For SCWA customers that are not subject to the future regulatory framework, SCWA shall prepare a Plan to ensure these customers meet a water demand reduction of a minimum of 20% of baseline water demand. The plan shall define baseline water demand as appropriate for SCWA's situation based on considerations such as weather, economy, wholesale supplier allocations or other relevant information. For the purpose of compliance with this term, if the Plan does not define baseline water demand, it is assumed to be the average water demand for the previous year (excluding drought years). The Plan shall be submitted within 2 weeks after the date of issuance of this order and updated within 2 weeks of any such new customer being added.

Upon receipt of demand reduction data, SCWA shall immediately inform the Deputy Director in the event that SCWA or any SCWA customer is not meeting the requirements of this term.

This term shall not be construed to suggest SCWA or SCWA customers are able to disregard or otherwise not comply with any applicable requirements under the future regulatory framework.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: June 17, 2015