



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

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FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

NOTICE OF PETITION BY SONOMA COUNTY WATER AGENCY REQUESTING APPROVAL OF A TEMPORARY URGENCY CHANGE IN PERMITS 12947A, 12949, 12950, AND 16596 (APPLICATIONS 12919A, 15736, 15737, 19351)

On June 29, 2004, Sonoma County Water Agency (SCWA) filed a petition with the State Water Resources Control Board (SWRCB) requesting approval of a Temporary Urgency Change to the subject permits pursuant to California Water Code 1435. The petition requests that from July 1 through December 31, 2004, minimum flow requirements for Dry Creek and the Russian River be followed based on "dry-year" criteria rather than "normal-year" criteria as defined in SWRCB Decision 1610. SCWA states "unusual hydrologic conditions in the Russian River this year warrant immediate State Water Board approval of this Petition to avoid the significant risks, particularly to adult Chinook salmon, that otherwise will occur from lower water levels in Lake Mendocino during the fall of 2004."

SCWA is preparing a Notice of Exemption under the California Environmental Quality Act (CEQA) for the action proposed by the petition. SCWA states "this proposed action is exempt from the California Environmental Quality Act under Classes 7 and 8 (Title 14, California Code of Regulations, sections 15307 and 15308), because it would be taken to assure the maintenance of natural resources and to maintain and protect the environment. Because the instream-flow requirements for *Dry* water supply conditions are part of the SWRCB's water-rights Decision 1610 and regularly occur, this proposed action would not cause unusual circumstances under Title 14, California Code of Regulations sections 15300.2(c)."

The SWRCB will be soliciting comments regarding the petition for Temporary Urgency Change at a Public Workshop Session to be held at its regularly scheduled Board meeting on July 22, 2004. For information regarding the Public Workshop, please visit the SWRCB's website at www.swrcb.ca.gov. To view a more comprehensive notice, SCWA's petition, and the proposed change order, please visit the Division of Water Rights' website at www.waterrights.ca.gov/Notices. Telephone inquiries can be directed to (916) 341-5342.

Any person may file comments/objections or information concerning SCWA's petition. **Comments/objections and other items filed in response to this notice shall be submitted to the persons listed below. To be fully considered by the SWRCB, the comments/objections and other items must be received by 5:00 p.m. on July 19, 2004.**

Name

- 2 -

Send any comments/objections and information to both:

Ms. Debbie Irvin
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

FAX No. (916) 341-5620
Email:dirvin@swrcb.ca.gov

Mr. Randy Poole
General Manager/Chief Engineer
Sonoma County Water Agency
P. O. Box 11628
Santa Rosa, CA 95406

FAX No. (707) 544-6123

Dated: July 13, 2004



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Environmental
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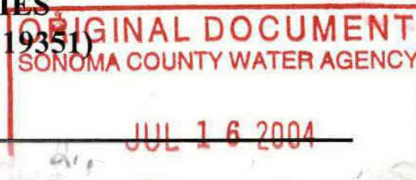


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**NOTICE OF PETITION BY SONOMA COUNTY WATER AGENCY
REQUESTING APPROVAL OF A TEMPORARY URGENCY
CHANGE IN PERMITS 12947A, 12949, 12950, AND 16596
IN MENDOCINO AND SONOMA COUNTIES
(APPLICATIONS 12919A, 15736, 15737, AND 19351)**



Wc/42-4.1&6.1-9 SWRCB Order Approving
Temporary Urgency Change in Permits 12947A,
12949, 12950 & 16596 (WR Order 2004-0035-EXEC)

NOTICE OF PUBLIC WORKSHOP

Sonoma County Water Agency's Temporary Urgency Change Petition will be an item for discussion during a Public Workshop at the State Water Resources Control Board's regularly scheduled Board Meeting to be held on Thursday, July 22, 2004.

At

**Joe Serna Jr./Cal-EPA Headquarters Building
Sierra Hearing Room – Second Floor
1001 I Street, Sacramento**

This item will not be heard until 11:00 AM or later.

WORKSHOP SESSION

The State Water Resources Control Board (SWRCB) will solicit comments regarding Sonoma County Water Agency's (SCWA) Temporary Urgency Change Petition. The SWRCB may impose time limits on presentations to ensure that all interested parties can be heard.

BACKGROUND

On June 29, 2004, SCWA filed a petition with the SWRCB requesting approval of a Temporary Urgency Change to the subject permits pursuant to California Water Code section 1435. The petition requests that from July 1 through December 31, 2004, minimum flows for Dry Creek and the Russian River be established based on dry-year criteria rather than normal-year criteria as defined in SWRCB

Decision 1610. SCWA states “unusual hydrologic conditions in the Russian River this year warrant immediate State Water Board approval of this Petition to avoid the significant risks, particularly to adult Chinook salmon, that otherwise will occur from lower water levels in Lake Mendocino during the fall of 2004.”

SCWA’s petition involves the following permits:

- Permit 12947A is for direct diversion of 92 cubic feet per second (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 is for 20 cfs to be directly diverted year-round from the Russian River at the Wohler and Mirabel Park Intakes near Forestville.
- Permit 12950 is for 60 cfs to be directly diverted from the Russian River at the Wohler and Mirabel Park Intakes from April 1 through September 30 of each year.
- Permit 16596 is for year-round direct diversion of 180 cfs from the Russian River and storage of 245,000 afa in Lake Sonoma collected from October 1 of each year to May 1 of the succeeding year.

According to SCWA’s petition, hydrologic conditions during Water Year 2002 caused Lake Mendocino storage levels to decline, thereby jeopardizing water supplies and listed Russian River salmonid fishery resources, particularly adult Chinook salmon, as well as severely impairing recreation at Lake Mendocino. Because of these problems, the Mendocino County Board of Supervisors declared a State of Emergency in 2002. SCWA asserts that Water Year 2004 presents similar risks.

SCWA requests that the 2004 water year be reclassified from a “normal year” to a “dry year” as defined in SWRCB Decision 1610 and included in SCWA’s permits.

Term 18 of SCWA’s Permit 12947A states:

For the protection of fish and wildlife, and for the maintenance of recreation in the Russian River, permittee shall pass through or release from storage at Lake Mendocino sufficient water to maintain:

- (A) A continuous streamflow in the East Fork Russian River from Coyote Dam to its confluence with the Russian River of 25 cubic feet per second (cfs) at all times.
- (B) The following minimum flows in the Russian River between the East Fork Russian River and Dry Creek:

- (1) During normal water supply conditions when the combined water in storage, including dead 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) During normal water supply conditions and when the combined water in storage, including dead 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 of 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
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- (3) During normal water supply conditions and when the combined water in storage, including dead 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

- (4) During dry water supply conditions
- | | |
|--|--------|
| | 75 cfs |
|--|--------|

- (5) During critical water supply conditions
- | | |
|--|--------|
| | 25 cfs |
|--|--------|

- (C) The following minimum flows in the Russian River between its confluence with Dry Creek and the Pacific Ocean to the extent that such flows cannot be met by releases from storage at Lake Sonoma under Permit 16596 issued on Application 19351:

- | | |
|---|---------|
| (1) During normal water supply conditions | 125 cfs |
| (2) During dry water supply conditions | 85 cfs |
| (3) During critical water supply conditions | 35 cfs |

For the purposes of the requirements in this term, the following definitions shall apply:

- (1) Dry water supply conditions exist when cumulative inflow to Lake Pillsbury beginning on October 1 of each year 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
 - 160,000 acre-feet as of June 1
- (2) Critical water supply conditions exist when cumulative inflow to Lake Pillsbury beginning on October 1 of each year 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
 - 75,000 acre-feet as of June 1
- (3) Normal water supply conditions exist in the absence of defined dry or critical water supply conditions.
- (4) The water supply condition designation for the months of July through December shall be the same as the designation for the previous June. Water supply conditions for January through June shall be redetermined monthly.
- (5) Cumulative inflow to Lake Pillsbury is the calculated algebraic sum of releases from Lake Pillsbury, increases in storage in Lake Pillsbury, and evaporation from Lake Pillsbury.
- (6) Estimated water supply storage space is the calculated reservoir volume below elevation 1,828.3 feet in Lake Pillsbury and below elevation 749.0 feet in Lake Mendocino. Both elevations refer to the National Geodetic Vertical Datum of 1929. The calculation shall use the most recent two reservoir volume surveys made by the U. S. Geological Survey, U. S. Army Corps of Engineers, or other responsible agency to determine the rate of

sedimentation to be assumed from the date of the most recent reservoir volume survey.

Term 15 of both Permit 12949 and Permit 12950 require SCWA to allow sufficient water to bypass the points of diversion at the Wohler and Mirabel Park Intakes on the Russian River to maintain the following minimum flows to the Pacific Ocean:

- | | | |
|-----|---|---------|
| (1) | During normal water supply conditions | 125 cfs |
| (2) | During dry water supply conditions | 85 cfs |
| (3) | During critical water supply conditions | 35 cfs |

Term 13 of Permit 16596 sets forth the following minimum flows for Dry Creek and the Russian River:

- (A) The following minimum flows in Dry Creek between Warm Springs Dam and its confluence with the Russian River:

- (1) During normal water supply conditions:

75 cfs from January 1 through April 30
80 cfs from May 1 through October 31
105 cfs from November 1 through December 30

- (2) During dry or critical water supply conditions:

25 cfs from April 1 through October 31
75 cfs from November 1 through March 31

- (B) The following minimum flows in the Russian River between its confluence with Dry Creek and the Pacific Ocean, 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:

- | | | |
|-----|---|---------|
| (1) | During normal water supply conditions | 125 cfs |
| (2) | During dry water supply conditions | 85 cfs |
| (3) | During critical water supply conditions | 35 cfs |

Note: Permits 12949, 12950, and 16596 use the same definitions of water year classification as those listed in Permit 12947A.

The California Department of Fish and Game and the National Marine Fisheries Service have submitted comment letters supporting SCWA's petition.

CEQA COMPLIANCE

SCWA, as Lead Agency as defined in the California Environmental Quality Act (CEQA), is proposing to prepare a Notice of Exemption for this project. SCWA states in its petition "the proposed action is exempt from the California Environmental Quality Act under Classes 7 and 8 (Title 14, California Code of Regulations, sections 15307 and 15308), because it [the action proposed by the petition] would be taken to assure the maintenance of natural resources and to maintain and protect the environment. Because the instream-flow requirements for *Dry* water supply conditions are part of the SWRCB's water-rights Decision 1610 and regularly occur, this proposed action would not cause unusual circumstances under Title 14, California Code of Regulations sections 15300.2(c)"

As the Responsible Agency under CEQA, the SWRCB similarly proposes to issue a Notice of Exemption, if it approves the proposed temporary urgency change.

SWRCB'S STATUTORY PROVISIONS

Chapter 6.6 of Part 2, Division 2, of the Water Code, commencing at section 1435, provides that any permittee or licensee who has an urgent need to change a 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 SWRCB's regulation, at California Code of Regulations, title 23, section 791(e), provides that the SWRCB shall follow as nearly as possible the procedures for changes in point of diversion, place of use, or purpose of use when processing petitions for other types of changes in water right permits and licenses. Accordingly, the procedures under Water Code section 1435 are applicable to changes to terms and conditions of water right permits and licenses.

The SWRCB must make the findings specified in Water Code section 1435(b) when issuing a temporary change order pursuant to Chapter 6.6. The required findings are:

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, including findings to support change order conditions imposed to ensure that the change is in the public interest, and may be made without injury to any other lawful user of the water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

Pursuant to the requirements of section 1435 above, the SWRCB is seeking information to assist in the evaluation of the proposed temporary urgency change petition. Any person may file comments/objections or information concerning SCWA's petition. Comments/objections and information should focus on the issues that the SWRCB will evaluate, as set forth above. The SWRCB will give prompt consideration to any input.

Comments/objections and other items filed in response to this notice shall be submitted to the persons listed below. To be fully considered by the SWRCB, the comments/objections and other items must be received by 5:00 p.m. on July 19, 2004.

A copy of a proposed order to temporarily change SCWA's permits is attached.

Send any comments/objections and information to both:

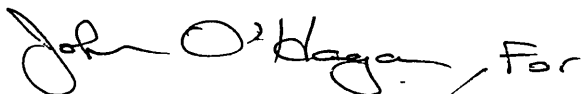
Ms. Debbie Irvin
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Mr. Randy Poole
General Manager/Chief Engineer
Sonoma County Water Agency
P. O. Box 11628
Santa Rosa, CA 95406

FAX No. (916) 341-5620
Email:dirvin@swrcb.ca.gov

FAX No. (707) 544-6123

In addition to the above submittal requirements, anyone who intends to make a presentation at the Public Workshop on Thursday, July 22, 2004, should bring additional copies of his or her statement to be available for interested parties.

Handwritten signature of John O'Hagan, followed by the word "For" written in a similar cursive style.

Victoria A. Whitney, Chief
Division of Water Rights

DATED:

JUL 13 2004