

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

**DIVISION OF WATER RIGHTS**

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

**Sonoma County Water Agency**

**ORDER APPROVING TEMPORARY URGENCY CHANGE**

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SOURCE: Dry Creek and Russian River

COUNTIES: Sonoma and Mendocino Counties

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BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

**1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION**

On April 22, 2015, Sonoma County Water Agency (SCWA) 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 change to the subject permits pursuant to California Water Code section 1435. The TUCP requests the following temporary reductions to the Russian River instream flow requirements to address low storage conditions in Lake Mendocino:

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

The TUCP requests that compliance with these minimum instream flow requirements be measured based on a 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. These 5-day running average provisions will allow SCWA to reduce the operational buffers needed to manage these stream flows, thereby allowing SCWA to conserve more water in Lake Mendocino.

No changes to the instream flow requirements for Dry Creek are requested.

The TUCP, in effect, requests that minimum flows for the Russian River be established based on State Water Board Decision 1610 (Decision 1610) *Dry* water supply criteria for the period from May 1 to October 27, 2015.

The request for 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 TUCP involves the following permits:

- Permit 12947A 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 for year-round direct diversion of 20 cfs from the Russian River at the Wohler and Mirabel Park Intakes near Forestville.
- Permit 12950 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.
- Permit 16596 for year-round direct diversion of 180 cfs from the Russian River and storage of 245,000 afa in Lake Sonoma from October 1 of each year to May 1 of the succeeding 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. The flows vary depending on river reach and water supply conditions. The current minimum instream flow requirements are for normal water supply conditions. The requirements are 185 cfs for the upper Russian River (between the confluence of the East and West Forks of the Russian River and the confluence of the Russian River and Dry Creek) and 125 cfs for the lower Russian River (between its confluence with Dry Creek and the Pacific Ocean).

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. Permits 12947A, 12949, 12950, and 16596 use the same water-year classification definitions. The water year classifications (Normal, Dry or Critically Dry) were established in Decision 1610 and are based on cumulative inflow into Lake Pillsbury beginning October 1. 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, 2014 is currently classified as a Normal year.

### **2.2 2015 Drought Conditions and Response**

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. declared a state of emergency in California due to the ongoing extraordinary drought and provided various provisions to help manage these drought conditions.

A Supplement to the TUCP indicates that on April 21, 2015, the water supply storage level in Lake Mendocino was 60,273 acre-feet. This storage level was 62 percent of the available water conservation pool. The low storage level is the result of the severe drought that began in the region in January 2013. In addition, Eel River transfers through the Potter Valley Project (PVP) were significantly reduced between November 15, 2014 and February 28, 2015 due to an emergency project by PG&E to replace the penstock shutoff valves. Accordingly, diversions through the PVP in 2015 have been significantly below the annual average of 2006 to 2014, thus further impacting the storage condition in Lake Mendocino.

According to the Supplement, Lake Mendocino storage is expected to decline to below 30,000 acre-feet by October 1, 2015, due to releases required to meet downstream water demands and anticipated minimum instream flow requirements on the Russian River. If dry conditions continue, storage levels could be as low as 10,000 acre-feet on January 1, 2016. The projected storage analysis 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 the Federal Energy Regulatory Commission. 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 reduce the instream flow requirements on the upper Russian River, which are maintained by reservoir releases, to preserve water in Lake Mendocino.

As of April 21, 2015, the water supply storage level in Lake Sonoma was 214,014 acre-feet. This storage level is 87 percent of the available water conservation pool. This storage level is slightly below normal for this time of year. However, the much larger water supply pool of Lake Sonoma provides multiple years of carryover storage. Consequently, SCWA has not requested any changes to the current minimum instream flow requirements for Dry Creek at this time.

SCWA is 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 Decision 1610 minimum instream flow requirements 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 pursuant to Water Code section 1435. (See Cal. Code Regs., tit. 23, § 805.) However, Governor Edmund G. Brown, Jr.'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.

On April 1, 2015, Governor Edmund G. Brown, Jr issued an executive order continuing 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 requested in the TUCP are consistent with the following Statutory and Categorical CEQA exemptions for the following reasons:

- 1) As of April 21, 2015, the water supply storage level in Lake Mendocino was 62 percent of the available water conservation pool. Information provided by SCWA demonstrates that continued releases of water pursuant to permit term requirements 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 TUCP 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 assure 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 assure 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 assure 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 TEMPORARY URGENCY CHANGE PETITION**

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 will issue and deliver to SCWA as soon as practicable, a notice of the temporary urgency change order pursuant to Water Code section 1438, subdivision (a). Pursuant to Water Code section 1438, subdivision (b)(1), SCWA is 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. In addition, the State Water Board will post the notice of the temporary urgency change order on its website, along with the TUCP (and accompanying materials). The State Water Board also will distribute the notice through an electronic notification system.

Any interested person may file an objection to a temporary urgency change. (*Id.*, subd. (d).) The State Water Board must promptly consider and may hold a hearing on any objection. (*Id.*, subd. (e).) State Water Board Resolution 2012-0029 delegates to the Deputy Director for Water Rights the authority to act on a temporary urgency change petition if there are no objections to the petition. (Resolution 2012-0029, ¶ 4.4.1.)

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 automatically 180 days after issuance, unless they are revoked or an earlier expiration date is specified. (*Id.*, § 1440.)

## **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 TUCP's. (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, the State Water Board must make the following findings:

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.

(Wat. Code, § 1435, subd. (b)(1-4).)

### **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 . . . ."

In this case, an urgent need exists for the proposed change in minimum instream flow requirements on the upper Russian River because, as described in the Supplement to the TUCP, 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. Additionally, the preserved storage will help mitigate the significantly reduced transfers of Eel River water to the East Fork of the Russian River due to scheduled repair activities to the Potter Valley Penstocks between November 2015 and March 2016. Specifically, at low storage conditions, there would be greater risk of insufficient water supplies to support: (a) survival of ESA-listed Russian River salmonid species, (b) agricultural and municipal uses that depend on the Russian River, and (c) river-based recreation. Without the proposed 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.

An urgent need also exists for the proposed change in minimum instream flow requirements on the lower Russian River because reductions in the upper Russian River flows could require an increase in Lake Sonoma releases into Dry Creek to meet lower Russian River flow requirements. The 2008 NMFS 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. Accordingly, granting this TUCP 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 mainstem Russian River will be reduced upon approval of this TUCP, prevention of the depletion of storage in Lake Mendocino is crucial for 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 Regional Water Quality Control Board (Regional Board) regarding filing the TUCP and the effects of the proposed changes. NMFS and the Regional Board have shown support for changes requested in the TUCP. The Regional Board has requested continuous water quality monitoring on the mainstem Russian River and at the Russian River Estuary and associated reporting, which will be required. NMFS is supportive of a plan to conserve storage in Lake Mendocino to protect aquatic resources, such as juvenile salmonid rearing throughout the summer, as well as this fall's adult salmonid migration and spawning; and recognizes that flow reductions will support conservation of Lake Mendocino's water supply and avoid dewatering of the upper Russian River. NMFS also supports reduced flows in the lower Russian river, to allow SCWA to avoid violation of their Incidental Take Statement. Division Staff have also consulted with NMFS and CDFW regarding terms necessary to protect fishery resources during the change. In light of the potential for the effective period of this Order to continue into migration seasons for threatened and endangered anadromous fish species, CDFW and NMFS have requested fisheries monitoring and reporting efforts in the upper and lower Russian River to understand adult salmon and steelhead population and movement during the period of reduced flows and consultations with SCWA to determine appropriate flows for fish passage. This order includes requirements for: 1) monitoring and reporting numbers of adult salmon and steelhead and 2) consultation with CDFW and NMFS regarding flow increases to support successful migration of salmon

and steelhead. This Order also includes a term limiting ramping rates below Lake Mendocino to avoid fish stranding.

To inform the review and approval of the TUCP 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, this Order requires SCWA to report on consultations with CDFW, NMFS, and the Regional Board. In addition, to ensure beneficial use of water resources to the fullest extent possible and to prevent waste of water, SCWA is required to provide weekly updates to the Deputy Director, CDFW, NMFS, and the Regional 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**

The proposed changes in the upper Russian River minimum instream flow requirements will help conserve stored water in Lake Mendocino so that, in the event drought conditions persist into water year 2016, 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 of the Russian River due to repair activities to the Potter Valley Project penstocks, which are scheduled for between November 2015 and March 2016.

To facilitate SCWA storage release operations to meet minimum instream flow requirements with minimal operational buffers, last summer, the contractors of the Mendocino County Russian River Flood Control and Water Conservation Improvement District (District) provided diversion forecasts to SCWA. The diversion forecast reporting was required per an August 25, 2014 State Water Board Order approving a Temporary Urgency Change Petition filed by the District on August 8, 2014. According to SCWA, the forecasts allowed SCWA operators to better understand river flow variations and respond appropriately. Accordingly, SCWA has requested the State Water Board require coordination with the District for similar diversion forecasts during the upcoming diversion season. As a means of further preserving Lake Mendocino water supplies, this requirement is included as Term 19.

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, such 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 drought conditions. 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, inclusion of a term requiring SCWA and its contractors to conserve water is in the public interest. In addition, SCWA will continue to implement water use efficiency programs that align with the California Urban Water Conservation Council's Best Management Practices (BMPs) and comply with SBx7-7.

#### **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 permittee has an urgent need to make the proposed change;

2. The petitioned change will not operate to the injury of any other lawful user of water;
3. The petitioned change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and,
4. The petitioned change, with the modifications described above, is in the public interest.

### ORDER

**NOW, THEREFORE, 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 180 days from the date of this Order.

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

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 cubic feet per second (cfs).
  - 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 cubic feet per second (cfs).
  - c. For purposes of compliance with this term, the minimum instream flow requirements shall be measured based on a 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.
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:  
JOHN O'HAGAN FOR

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: May 01, 2015