



State Water Resources Control Board



Linda S. Adams
Secretary for
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Division of Water Rights
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Arnold Schwarzenegger
Governor

NOTICE OF STATE WATER RESOURCES CONTROL BOARD, DIVISION OF WATER RIGHTS ORDER APPROVING A TEMPORARY URGENCY CHANGE PETITION BY SONOMA COUNTY WATER AGENCY REGARDING PERMITS 12947A, 12949, 12950, AND 16596 (APPLICATIONS 12919A, 15736, 15737, 19351)

On May 24, 2010 the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Order WR 2010-0018-DWR approving Sonoma County Water Agency's (SCWA) petition for a Temporary Urgency Change to the subject permits. SCWA submitted the petition pursuant to California Water Code section 1435. The Order approves the reduction in minimum instream flow requirements for the Russian River as follows:

- (1) From May 25 through October 15, 2010, in-stream flow requirements for the upper Russian River (from its confluence with the East Fork of the Russian River to its confluence with Dry Creek) be reduced from 185 cubic feet per second (cfs) to 125 cfs; and
- (2) From May 25 through October 15, 2010 in-stream flow requirements for the lower Russian River (downstream of its confluence with Dry Creek) be reduced from 125 cfs to 70 cfs, with the understanding that the SCWA will typically maintain approximately 85 cfs at the Hacienda gage as practicably feasible.

No changes to the in-stream flow requirements for Dry Creek are requested. The petition is made to comply with mandates in the Biological Opinion that was issued by the National Marine Fisheries Service (NMFS) on September 24, 2008.

With the petition SCWA submitted a document prepared by its staff titled, "Sonoma County Water Agency, In-stream Flow Analysis for 2010 Temporary Urgency Change Petition" (Analysis) dated April 2010. The Analysis provides: (1) a summary of minimum in-stream flows required under Decision 1610; (2) an assessment of current water supply conditions of the Russian River System; (3) a summary of the Biological Opinion issued by National Marine Fisheries Service (NMFS) mandating SCWA to petition the State Board for temporary changes in minimum in-stream flow requirements in the Russian River; and (4) a summary of the criteria for approving a temporary urgency change petition. The Analysis indicates that, unlike the Temporary Urgency Change Petitions filed by SCWA in 2004, 2007 and 2009, which requested reductions in minimum in-stream flow requirements in response to low storage levels in Lake Mendocino, the petition being filed in 2010 is mandated by the Biological Opinion in order to benefit threatened and endangered fish species. Water supply storage in Lake Mendocino as of April 1, 2010 was approximately 83,000 acre-feet, significantly higher than in 2007 (71,406 acre-feet) and 2009 (56,666 acre-feet).

Under the federal Endangered Species Act (ESA), steelhead, coho salmon and Chinook salmon in the Russian River watershed are listed as threatened or endangered species. Coho salmon is also listed as endangered under the California Endangered Species Act (CESA). In September 2008, the National Marine Fisheries Service (NMFS) issued the Russian River

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Biological Opinion (Biological Opinion). The Biological Opinion is the culmination of more than a decade of consultation under Section 7 of the ESA among SCWA, U.S. Army Corps of Engineers (Corps), and NMFS regarding the impacts of SCWA's and the Corps' water supply and flood control operations in the Russian River watershed on the survival of these listed fish species.

Studies conducted during the consultation period that ultimately led to this Biological Opinion indicate that summer flows in the Upper Russian River and Dry Creek required by State Water Board Decision 1610 are too high for optimal juvenile salmonid habitat. NMFS also concluded in the Biological Opinion that the historical practice of breaching the sandbar that builds up and frequently closes the mouth of the Russian River during the summer and fall may adversely affect the listed species. NMFS concluded in the Biological Opinion that it might be better for juvenile steelhead and salmon if the sandbar is kept closed during these times, to allow for the formation of a seasonal freshwater lagoon in the estuary. Minimum in-stream flows required by State Water Board Decision 1610 result in flows into the estuary that make it difficult to maintain a freshwater lagoon while preventing flooding of adjacent properties.

Without the requested modifications to the in-stream flow requirements, the high summer time flows required by State Water Board Decision 1610 will continue to jeopardize the recovery of coho salmon and steelhead in the Russian River and its tributaries.

SCWA, as lead agency, as defined in the California Environmental Quality Act (CEQA), is proposing to prepare a Notice of Exemption for this project. The State Water Board, as responsible agency, has reviewed the information submitted by the SCWA and has determined that the petition qualifies for an exemption under CEQA.

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." (Title 14, California Code of Regulations, section 15307.) The proposed action will assure the maintenance of a natural resource, i.e., the instream resources of the Russian River. 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." (Title 14, California Code of Regulations, section 15308.) The proposed action will assure the maintenance of the environment, i.e., the instream environment of the Russian River.

This petition notice, SCWA's petition, and Order WR 2010-0018-DWR can be viewed at http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfer_s_tu_notices/index.shtml. Any interested person may file an objection to the Temporary Urgency Change. Comments and objections filed in response to this notice shall be submitted to the persons listed below and must be received by 5:00 p.m. on Wednesday, June 23, 2010.

Send comments and/or objections to both:

Aaron Miller
Permitting Section
Division of Water Rights
State Water Resources Control Board
P O Box 2000
Sacramento, CA 95812
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Grant Davis
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Voicemails with telephone comments or inquiries can be left on the Division of Water Rights' comment line dedicated to the SCWA petition at (916) 552-9286.

STEVEN HERERRA, MANAGER
Water Rights Permitting Section

DATED: May 24, 2010