

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 21198  
(Application 31055)

**Camp Meeker Recreation and Park District**

**ORDER APPROVING TEMPORARY URGENCY CHANGES  
INCLUDING INSTREAM FLOW DEDICATION**

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SOURCE: Russian River underflow tributary to the Pacific Ocean

COUNTY: Sonoma County

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**BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:**

**1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION**

On June 7, 2021, Camp Meeker Recreation and Park District (Camp Meeker or Petitioner) 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 temporary changes to allow for instream flow dedication of water under water right Permit 21198 (Application 31055) pursuant to California Water Code sections 1435 and 1707. Camp Meeker previously filed similar TUCPs for instream flow dedication with the Division in 2015, 2016, 2018, 2019, and 2020. With the TUCP, Camp Meeker requests the following temporary changes to Permit 21198:

- (1) Purpose of Use: Addition of Fish and Wildlife Preservation and Enhancement use;
- (2) Place of Use: Addition of a portion of Dutch Bill Creek as follows:
  - The upstream limit is located at California Coordinate System 1983 (CCS83), Zone 2, North 1,921,868 feet and East 6,282,809 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 21, T7N, R10W, MDB&M
  - The downstream limit is located at the confluence of Dutch Bill Creek and the Russian River at CCS83, Zone 2, North 1,932,731 feet and East 6,272,591 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 7, T7N, R10W, MDB&M; and

- (3) Instream Flow Dedication of up to 30 acre-feet (af) of water at a maximum diversion rate of 0.2 cubic foot per second (cfs) for Fish and Wildlife Preservation and Enhancement use in Dutch Bill Creek. Camp Meeker has indicated a target flow rate in Dutch Bill Creek of 0.1 cfs.

The intent of this TUCP for instream flow dedication is to enable stream flow augmentation in Dutch Bill Creek to support survival of state and federally endangered coho salmon (*Oncorhynchus kisutch*) and federally threatened steelhead (*Oncorhynchus mykiss*). Dutch Bill Creek has experienced critical shortages of summer baseflows causing loss of rearing habitat for both coho salmon and steelhead trout.

## **2.0 BACKGROUND**

### **2.1 Water Right Permit 21198 and Project Components**

Water right Permit 21198 was issued to Camp Meeker on April 27, 2007, pursuant to Application 31055. Permit 21198 authorizes direct diversion at a rate of 0.23 cfs, not to exceed 90 acre-feet per annum (afa) from Russian River Underflow, tributary to the Pacific Ocean, in Sonoma County. Water is authorized to be diverted from January 1 to December 31 of each year for municipal and fire protection purposes within the boundaries of Camp Meeker's authorized place of use, including 365 residences. Camp Meeker's place of use is identified on the project map as filed with the State Water Board, being within portions of Sections 21, 22, 27, and 28, T7N, R10W, MDB&M. Permit 21198 has a priority of May 12, 2000, and includes a deadline of December 31, 2017, for Camp Meeker to complete construction and use of water pursuant to the water right.

The Dutch Bill Creek watershed encompasses the area of the towns of Occidental and Camp Meeker as well as rural residences. Camp Meeker operates an offset well on the Russian River near Monte Rio (Monte Rio well), a transmission main, pump station, and storage tanks. The Monte Rio well is located CCS83, Zone 2, North 1,932,975 feet and East 6,272,895 feet, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 7, T7N, R10W, MDB&M. Once diverted at the Monte Rio well, water is transported approximately four miles via a 6-inch transmission main to a water filtration facility in Camp Meeker, near Alliance Redwoods Conference Grounds (Alliance Redwoods) where it is treated, stored, and subsequently delivered to residences. The transmission main lies within the right-of-way for the Bohemian Highway, which roughly follows Dutch Bill Creek and connects with storage facilities in Camp Meeker and the town of Occidental. Russian River Utility manages the Camp Meeker and Occidental Community Services District (Occidental CSD) public water systems.

### **2.2 Proposed Dutch Bill Creek Streamflow Augmentation**

In August 2015, staff from the National Marine Fisheries Services (NMFS) originally approached Camp Meeker regarding the possibility of using Camp Meeker's existing water

delivery infrastructure to augment flows in Dutch Bill Creek for a fishery protection and enhancement project. To implement the project, water is diverted from the Monte Rio well on the Russian River pursuant to Camp Meeker's Permit 21198 and then directed to an existing 7,500-gallon storage tank at the water treatment facility at Alliance Redwoods, approximately four miles upstream of the well. Water from the tank is released into a rock-lined culvert drainage channel where it then flows into Dutch Bill Creek.

In order to facilitate the project, Camp Meeker maintains an agreement with Alliance Redwoods to allow the conveyance of water between the storage tank and Dutch Bill Creek. The target rate of release to Dutch Bill Creek is 0.1 cfs, but actual diversion rates and release of water to the creek are based on instream flow conditions, facilities constraints, and the terms of Permit 21198. The instream flow dedication will continue up to the first substantial rain event or until flow conditions in Dutch Bill Creek recover to a minimum of 0.1 cfs. NMFS staff have estimated 0.1 cfs to be the minimum necessary flow to maintain hydrologic conductivity between pools in the stream.

On May 31, 2018, Camp Meeker filed a change petition with the State Water Board in order to pursue a long-term instream flow dedication to continue the project when necessary in future years without having the need to file a TUCP. On October 9, 2020, Camp Meeker filed a petition for extension of time for Permit 21198 with the State Water Board requesting an additional ten years to fully perfect the water right. Camp Meeker's petitions are currently being processed by the State Water Board.

#### *Previous TUCPs*

During the 2013-2015 drought, the California Department of Fish and Wildlife (CDFW) and NMFS recommended the State Water Board have Dutch Bill Creek, Green Valley Creek, Mark West Creek, and Mill Creek, which are all tributaries to the Russian River, be protected by proposed Emergency Drought Regulations because they are high conservation priorities for California Central Coast (CCC) coho salmon. These four tributary watersheds provide critical spawning and rearing habitat for wild populations of state and federally endangered CCC coho salmon, and for the Russian River Coho Salmon Captive Broodstock Program. Dutch Bill Creek was identified as a Core Focus Area for coho protection and restoration in NMFS's Final Recovery Plan for CCC coho salmon. Federally threatened juvenile CCC steelhead also use these four Russian River tributaries and require similar rearing habitat and water quality conditions as juvenile CCC coho salmon during the summer months. Juvenile CCC coho salmon and CCC steelhead can survive very dry conditions in pools in the upper watersheds, provided the pools have sufficient water and stream connectivity to maintain appropriate temperature, dissolved oxygen, and other water quality conditions

Camp Meeker agreed to augment flows in Dutch Bill Creek as recommended by NMFS and on August 8, 2015, filed its first TUCP with the Division for instream flow dedication that proposed to divert water from the Monte Rio well on the Russian River at a rate ranging from 0.05 to 0.2 cfs under Permit 21198 for release from its pipeline into Dutch Bill Creek.

The Division approved the original TUCP on September 3, 2015, and a total of 16.12 af of water diverted under Permit 21198 was released to Dutch Bill Creek that year. Camp Meeker filed similar TUCPs in 2016, 2018, 2019, and 2020. Water released into Dutch Bill Creek under the subsequent TUCPs ranged from 11.95 af in 2016, 15.23 af in 2018, 13.30 af in 2019, to 24.52 af in 2020.

In 2015, as a result of Camp Meeker's release of water, which began on August 24<sup>th</sup>, Trout Unlimited's downstream gage on Dutch Bill Creek showed substantially improved surface flow, which was determined to be a significant contributing factor to maintaining rearing habitat in a wetted condition, despite occurring during the worst drought conditions in recent history. California Sea Grant (CSG) concluded that in 76 percent of the juvenile salmonids observed in Dutch Bill Creek at the beginning of the 2015 rearing season were occupying habitat that remained wetted throughout the summer period which was a significantly higher proportion than was observed in other critical coho salmon streams that year.

In 2016, CSG monitoring of Dutch Bill Creek before and after the flow release that resulted from the approved TUCP documented improvements in streamflow and fish habitat downstream. The flow from Camp Meeker's releases, which began on August 19<sup>th</sup>, resulted in an increase in downstream wetted habitat, pool connectivity, and an increase in dissolved oxygen in the pools which improved conditions for endangered coho salmon and threatened steelhead trout rearing in approximately 2.5 kilometers of Dutch Bill Creek. However it was determined that an earlier release of water before sections of the stream went dry would have benefitted more fish as more water released over a longer period of time would build a better base flow and allow surface flow to persist longer.

In 2018 and 2019, releases that resulted from Camp Meeker's approved TUCPs began on August 27<sup>th</sup> and August 19<sup>th</sup>, respectively. In 2018, approximately one month following the release of Camp Meeker's water, previously dry conditions three kilometers downstream of the release location were measurably wet, thereby improving stream connectivity, maintaining pool volume, and providing stable dissolved oxygen conditions. In 2019, which wasn't as dry as 2018, releases appeared to lead to subtle increases in flow and dissolved oxygen concentrations as far as three kilometers downstream.

In 2020, releases that resulted from Camp Meeker's approved TUCP markedly increased the overall amount of late-summer wetted habitat in Dutch Bill Creek, which would have been available to rearing fish in the creek under natural conditions, and therefore reduced the proposed of juvenile salmonids impacted by stream drying. CSG determined that the augmentation of streamflow resulted in higher over-summer streamflow, which correlated with improved water quality and greater pool conductivity. Trout Unlimited concluded that Camp Meeker's release of water increased the probability of juvenile salmonid survival in Dutch Bill Creek and noted the greatest density of coho were concentrated in the reach of the creek below the release location. Further, because Camp Meeker's release of water began earlier in the year (July 1<sup>st</sup>) than under previously approved TUCPs, Trout Unlimited believes that the benefit to instream habitat may have extended farther downstream than previous years' releases because of the resulting extended duration of release of water.

This proved to be particularly beneficial by minimizing stream drying, disconnection, and deteriorating conditions that would likely have occurred in the upper part of Dutch Bill Creek in what was defined as a dry water year. Based on the results of the release of water from Camp Meeker's approved 2020 TUCP, Trout Unlimited recommended that future releases be initiated earlier in the summer season, whenever possible.

### **2.3 2021 Drought Conditions in the Russian River Watershed**

#### *Russian River Watershed*

On April 21, 2021, Governor Gavin Newsom declared a regional drought emergency for the Russian River watershed (declaration) due to the acutely dry conditions within Mendocino and Sonoma Counties. The declaration directed the State Water Board to consider adoption of emergency regulations, "to curtail water diversions when water is not available at water right holders' priority of right or to protect releases of stored water."

Where the Governor has declared a state of emergency due to drought conditions, Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations to "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports."

#### *Emergency Curtailment Regulations for the Russian River Watershed*

On June 15, 2021, the State Water Board adopted Emergency Regulations for Curtailment of Diversions to Protect Water Supplies and Threatened and Endangered Fish in the Russian River Watershed. (Ca. Code Regs., tit. 23, § 877 et seq.) These emergency regulations establish a methodology for determining to what extent diversions must cease. The regulations provide the State Water Board with a more streamlined process to curtail diversions of water to prevent unreasonable diversion or use of water such that appropriate minimum amounts of water are available for: (1) preservation of supplies and flows necessary for minimum human health and safety needs; (2) preserving storage in Lake Mendocino and Lake Sonoma to the extent possible; and (3) public trust needs for minimum flows for migration of state- and federally-listed anadromous fish.

Camp Meeker's diversion is located on the Lower Russian River within the Lower Russian River Watershed.<sup>1</sup> The emergency regulations allow the Division to issue emergency curtailments in the Lower Russian River Watershed when flows are insufficient to support all diversions. (Ca. Code Regs., tit. 23, § 877.2.) However, subject to specific conditions, the emergency regulations allow diversions to continue for water right holders who may be subject to a curtailment order but need to continue their diversion to supply water for minimum health and safety needs. (Ca. Code Regs., tit. 23, § 878.1.) The emergency regulations also allow diversions to continue for water right holders whose diversion of water is dedicated to instream uses for the benefit of fish and wildlife pursuant to Water Code section 1707, including those that divert water to a different location for subsequent release, provided the location of release is hydraulically connected to the Russian River. (Ca. Code Regs., tit. 23, § 878 subd. (b).)

Consequently, regardless of whether Camp Meeker is eventually issued a curtailment order pursuant to the emergency regulations, Camp Meeker's municipal diversions and diversions for instream flow dedication involving fish and wildlife enhancement as requested by the current TUCP may continue. This TUCP approval order will include a term requiring Camp Meeker's compliance with the emergency regulations in the event diversions in the Lower Russian River Watershed are curtailed.

#### Dutch Bill Creek

Information included in the TUCP indicated that during the winter of 2020/21, dozens of salmonid redds were observed in Dutch Bill Creek downstream of Camp Meeker, with the vast majority in the lower reach. Juvenile fish hatching from the redds will need sufficient streamflow to survive the summer season (minimum of 0.5 cfs is desired). In all years that CSG has been conducting wet/dry mapping surveys (since 2012 and including both wet and dry years), the lower reaches of Dutch Bill Creek have become intermittent or dry, leaving them unsuitable for rearing fish. Data from Trout Unlimited's streamflow gage in the lower reach of Dutch Bill Creek shows the reach's hydrograph has a steep falling limb, and quickly recedes to low flow, disconnected and dry conditions following the last rain event of the season. In May 2021, Trout Unlimited observed the lower reach of Dutch Bill Creek had already becoming extensively disconnected, blocking passage of out-migrating smolts and anticipated much of it will become unsuitable for rearing salmonids as early as late-May to early June 2021. Given the positive results from previous years' flow enhancements and the anticipated dry conditions in the lower reaches this year, additional flow from the project will likely provide a substantial benefit to fish again. With the current TUCP, Camp Meeker

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<sup>1</sup> The Lower Russian River refers to the surface waters, including underflow and subterranean stream, of the Russian River downstream of the confluence of Dry Creek and the Russian River. The Lower Russian River Watershed refers to the area in Sonoma County that drains towards Dry Creek and the area downstream of the confluence of the Russian River and Dry Creek that drains towards the outlet of the Russian River to the Pacific Ocean.

requests to repeat the Dutch Bill Creek flow enhancement project as requested with previous TUCPs during 2021 using the same infrastructure at the same range of diversion rates as requested in previous years.

### **3.0 COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The State Water Board must comply with applicable requirements of the CEQA (Pub. Resources Code, § 21000 et seq.) prior to issuance of any order approving a TUCP. (Cal. Code Regs., tit. 23, § 805, subd. (b).) Camp Meeker determined that the requested changes are categorically exempt under CEQA, specifically determining that the requested changes meet the Class 1, 3, 4, and 33 categorical exemption criteria set forth in the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.). Camp Meeker filed a Notice of Exemption on May 19, 2021. The State Water Board has reviewed the information submitted by Camp Meeker and has made its own independent finding that the requested temporary urgency changes to Permit 21198 are categorically exempt from CEQA.

The changes requested in the 2021 TUCP are consistent with the following Categorical CEQA exemptions as described below:

1. A Class 1 categorical exemption, “consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” (Cal. Code Regs., tit. 14, § 15301.) The proposed action makes use of an existing offset well, pipeline, storage tank and treatment plant, with no expansion of the capacity of those structures, and negligible expansion of operations.
2. A Class 3 categorical exemption, “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.” (Cal. Code Regs., tit. 14, § 15303.) The proposed action involves addition of a 2-inch, temporary above-ground pipe running from an existing connection at the treatment facility storage tank at Alliance Redwoods to Dutch Bill Creek. The installation involves no earthwork or clearing of vegetation.
3. A Class 4 categorical exemption, “consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes.” (Cal. Code Regs., tit. 14, § 15304.) The proposed dedication of instream flow would temporarily improve the condition of the water in Dutch Bill Creek but would not consume any additional water. The rate and volume of water diverted from the Russian River would not exceed that already authorized and developed under Permit 21198.

4. A Class 33 categorical exemption, “consists of projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife,” given certain conditions. (Cal. Code Regs., tit. 14, § 15333.) The proposed action’s purpose is to assure the protection of habitat for fish and otherwise meets the conditions for the exemption.

The Division will file a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062 after issuance of this Order.

#### **4.0 PROCEDURAL REQUIREMENTS CONCERNING THE TUCP**

The State Water Board will issue and deliver to Camp Meeker, as soon as practicable, a notice of the temporary urgency change order pursuant to Water Code section 1438 subsection (a). Pursuant to Water Code section 1438 subsection (b)(2), Camp Meeker is required to post the notice in at least two conspicuous places in the locality to be affected by the changes no later than two days after receipt. The State Water Board will send a copy of the notice by registered mail to each person who, in the judgment of the board, could be adversely affected by the temporary changes. The State Water Board also will distribute the notice through its electronic notification system. Pursuant to Water Code section 1438 subsection (a), the State Water Board may issue a temporary urgency change order in advance of the required notice.

#### **5.0 CRITERIA FOR APPROVING THE PROPOSED TUCP**

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. Further, Water Code section 1707 authorizes the temporary urgency change provisions of Water Code section 1435 et seq. for a change for the purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation in, or on, the water. The State Water Board's regulations set forth the filing and other procedural requirements applicable to TUCPs. (See 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 under Water Code section 1435, 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.

As part of the 2021 TUCP for Permit 21198, Camp Meeker is proposing to dedicate up to 30 af of water for instream flow dedication pursuant to Water Code section 1707. Before approving an instream flow petition, the State Water Board must also make the following findings (Wat. Code, § 1707, subd. (b)(1-3)):

1. the proposed change will not increase the amount of water Camp Meeker is entitled to use;
2. the proposed change will not unreasonably effect any legal user of water; and
3. the proposed change otherwise meets the requirements of Division 2 of the Water Code.

### **5.1 Urgency of the Proposed Changes**

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 changes are 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...” However, the State Water Board shall not find the need urgent if it concludes that the petitioner has failed to exercise due diligence in petitioning for a change pursuant to other appropriate provisions of the Water Code.

In this case, and as discussed in Section 2.3 above, there is an urgent need for the proposed changes in order to support the survival of state and federally endangered coho salmon and federally threatened steelhead that are experiencing critically low flows in Dutch Bill Creek this year.

### **5.2 No Unreasonable Effect or Injury to Any Other Lawful User of Water**

Absent approval of the proposed changes, the water to be made available by Camp Meeker for the proposed instream dedication would either be put to consumptive use within the boundaries of Camp Meeker’s place of use as identified in Permit 21198 or would continue to flow down the Russian River. The instream flow dedication proposed by Camp Meeker is a non-consumptive use of water. Water diverted for instream flow purposes from Camp Meeker’s Monte Rio well will re-enter the Russian River approximately 285 feet downstream after flowing down Dutch Bill Creek, less natural stream conveyance losses. Consequently, only lawful users on the Russian River downstream of the Monte Rio well but upstream of the confluence with Dutch Bill Creek could experience any significant effect or injury from the proposed action. Per Division records, Occidental CSD, pursuant to Permit 21214, constitutes the only user that could

meet these criteria. Permit 21214, which is junior in priority to Camp Meeker's permit, authorizes year-round direct diversion of 0.16 cfs, up to 65 afa, of Russian River underflow from an offset well approximately 50 feet downstream of Camp Meeker's Monte Rio well. However, as Permit 21214 is junior to Permit 21198, Camp Meeker has the right to divert flow consistent with its permitted limitations before Occidental CSD can claim injury to its ability to divert water.

Accordingly, granting the 2021 TUCP will not result in unreasonable effect or injury to any other lawful user of water. Pursuant to Water Code section 1439, the State Water Board shall 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**

Prior to approval of a TUCP, the State Water Board must find that the proposed changes may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses. In addition, the State Water Board has an independent obligation to consider the effect of approval of Camp Meeker's TUCP on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346].) Public trust resources may include, but are not limited to, wildlife, fish, aquatic dependent species, streambeds, riparian areas, tidelands, and recreation in navigable waterways, as well as fisheries located in non-navigable waterways. It is also the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall use their authority in furtherance of the purposes of the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). State agencies should not approve projects that would jeopardize the continued existence of any endangered species or threatened species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat that would prevent jeopardy. (Fish & G. Code, §§ 2053 & 2055.)

As noted herein, the action would enhance fish habitat and other instream beneficial uses in Dutch Bill Creek by temporarily augmenting flows for rearing habitat for salmonids. Monitoring results from instream flow releases pursuant to the 2015, 2016, 2018, 2019, and 2020 TUCP Orders showed that increased summer flows consistently improved dissolved oxygen concentrations and reconnected pool habitat, benefitting juvenile coho salmon and steelhead survival and growth.

The previous years' TUCP instream flow releases were monitored extensively. CSG and Sonoma County Water Agency (Sonoma Water) mapped wetted habitat and took intermittent measurements of dissolved oxygen and water temperature in Dutch Bill Creek downstream of the release point in September of 2015 and at weekly to biweekly intervals in the summer of 2016. Between May and October of 2018 and 2019, CSG and Sonoma Water mapped wetted habitat, measured riffle crest depths, and took intermittent

measurements of dissolved oxygen and water temperature downstream and upstream of the release point on a biweekly basis. Russian River Utility gathered data on water temperature and dissolved oxygen at the pipe outlet. Trout Unlimited also operated a streamflow gage at Westminster Woods, downstream of the release point.

The monitoring showed that flow augmentation from this project improved surface flow and dissolved oxygen levels in Dutch Bill Creek downstream of the release and contributed to maintaining downstream rearing habitat for juvenile salmonids every year a TUCP was approved. Based on the positive results from previous years' flow enhancements via the approved TUCPs and the anticipated onset of early drying conditions in the lower reaches of Dutch Bill Creek this year, additional flow from the project will likely provide a substantial benefit to fish again in 2021.

Further, Camp Meeker consulted with the North Coast Regional Water Quality Control Board (North Coast Water Board) regarding the 2021 TUCP and potential environmental effects of the proposed changes. The North Coast Water Board regulates discharges into waters of the State and establishes water quality objectives for Dutch Bill Creek and other water bodies in the Water Quality Control Plan for the North Coast Region (Basin Plan). Relevant water quality parameters for this project include dissolved oxygen, temperature, and specific conductivity. Temperature criteria consist of two parts: 1) receiving water temperatures cannot be altered unless the alteration will not harm beneficial uses; and 2) receiving water temperatures cannot be altered by more than 5 degrees Fahrenheit (2.8°C). North Coast Water Board staff reviewed the monitoring data from Camp Meeker's previous releases and concluded the releases neither caused nor contributed to any exceedances of water quality objectives defined in the Basin Plan. This conclusion was based on the observation that: (1) receiving water temperature did not exceed an instantaneous temperature of 18°C, a harmful threshold for coho salmon; (2) there was a substantial probability of fish mortality in the absence of the discharge due to drought conditions, and; (3) the change in stream water temperature never exceeded 1.9°C (3.4°F).

CDFW, NMFS, the Russian River Coho Partnership, Trout Unlimited, and the Gold Ridge Resource Conservation District have all expressed support for the project. Camp Meeker consulted with CDFW, NMFS, and the North Coast Water Board regarding the previous TUCPs as well as the 2021 TUCP. CDFW and NMFS have been directly involved in the design of the project. By memo dated June 2, 2021, CDFW requested the State Water Board prioritize processing the 2021 TUCP since the flow enhancement projects completed under Camp Meeker's previous TUCP approvals were very successful in maintaining instream flows in Dutch Bill Creek.

With the conditions imposed by this Order, the State Water Board finds that granting the proposed temporary changes will not have an unreasonable effect on fish, wildlife, or other instream beneficial uses and protects public trust resources to the extent feasible. To inform 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 Camp Meeker to report on consultations with CDFW, NMFS, and the North Coast Water Board.

#### **5.4 The Proposed Changes are in the Public Interest**

Dutch Bill Creek is a high-priority watershed for both CCC coho salmon, which are listed as endangered under the State and federal Endangered Species Acts, and CCC steelhead, which are federally listed as threatened. Augmentation of flows in Dutch Bill Creek will alleviate the effect of drought-related dry conditions on juvenile coho salmon and steelhead by improving rearing habitat conditions. Moreover, coho salmon in Dutch Bill Creek are critical to the overall viability of wild coho in the Russian River basin. It is in the public interest to enhance protection of Dutch Bill Creek's salmonid fisheries during the current drought. Additionally, the use is non-consumptive and the dedicated water would again become available for downstream beneficial uses after passing the dedicated reach of Dutch Bill Creek.

#### **5.5 No Increase in the Amount of Water Petitioner is Entitled to Use**

Water Code section 1707, subdivision (b)(1), requires that the State Water Board, before approving a change to dedicate water to instream flows, find that the proposed change will not increase the amount of water the person is entitled to use. The State Water Board finds, in accordance with Water Code section 1707, subdivision (b)(a), that the proposed change will not increase the amount of water that Camp Meeker is entitled to use. This finding is based on a comparison of previous records of diversion under Permit 21198 to the diversion rate dedicated to instream use.

The proposed changes do not seek to expand the season, rate, or amount water that can be diverted under Permit 21198. As discussed herein, the proposed changes would temporarily modify the place and purpose of use of Camp Meeker's existing water right. Pursuant to Permit 21198, Camp Meeker had until December 31, 2017 to demonstrate complete application of its authorized 90 afa and direct diversion rate of 0.23 cfs. The highest reported annual use occurred in 2016 when Camp Meeker used 46.65 afa. Camp Meeker also has an active water supply agreement with Sonoma Water. Camp Meeker filed a petition for extension of time for Permit 21198 on October 5, 2020. The Division is currently processing Camp Meeker's petition for time extension.

Camp Meeker intends to continue to divert water for municipal and fire protection uses. Because Permit 21198 expired on December 31, 2017, Camp Meeker cannot divert more water than the maximum diversion to beneficial use that occurred before the permit expiration date, not inclusive of any flows diverted pursuant to previous TUCPs. Therefore, Camp Meeker will be limited to a combined total diversion of 46.65 af in 2021 for municipal and fire protection uses, and fish and wildlife preservation uses as proposed with this TUCP.

## **5.6 Compliance with Division 2 of the Water Code**

Camp Meeker has complied with the procedures for change petitions under Water Code section 1435. As discussed above, the project will not injure other legal users of water, will not unreasonably harm fish and wildlife, will not increase Petitioner's rights, is urgently needed, and is in the public interest. The Petitioner has a permitted water right issued by the State Water Board and there has been recent diversion and use and thus no indication of forfeiture. Therefore, the change petition meets the applicable requirements of Division 2 of the Water Code.

## **6.0 STATE WATER BOARD DELEGATION OF AUTHORITY**

Pursuant to Resolution No. 2012-0029, the State Water Board has delegated authority to the Deputy Director for Water Rights (Deputy Director) to act on petitions for temporary urgency change under specific circumstances. (Resolution No. 2012-0029, section 4.4.1.) Resolution No. 2012-0029 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director, and this authority has been so redelegated by memorandum dated October 19, 2017.

## **7.0 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 Petitioner has an urgent need to make the proposed changes;
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.

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1707.

I conclude that, based on the available evidence:

1. The proposed change will not increase the amount of water Camp Meeker is entitled to use;
2. The proposed change will not unreasonably affect any legal user of water; and
3. The proposed change otherwise meets the requirements of Division 2 of the Water Code.

## ORDER

**NOW, THEREFORE, IT IS ORDERED THAT** the petition filed by Camp Meeker Recreation and Park District (Camp Meeker) for temporary urgency changes for Permit 21198 is approved and effective until 180 days from the issuance of this Order.

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

1. Fish and Wildlife Preservation and Enhancement is added as a purpose of use along the section of Dutch Bill Creek as described as: 1) upstream limit located by CCS83, Zone 2, North 1,921,868 feet and East 6,282,809 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 21, T7N, R10W, MDB&M; and 2) downstream limit is the confluence of Dutch Bill Creek and the Russian River located by CCS83, Zone 2, North 1,932,731 feet and East 6,272,591 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 7, T7N, R10W, MDB&M.
2. Camp Meeker may dedicate up to 30 acre-feet (af) per annum up to a maximum direct diversion rate of 0.2 cubic foot per second (cfs) to Fish and Wildlife Preservation and Enhancement instream use during the duration of this Order. The maximum rate of diversion for all beneficial uses is 0.23 cfs. The total maximum combined diversion under Permit 21198 during 2021 for Municipal, Fire Protection, and Fish and Wildlife Preservation and Enhancement purposes of use shall not exceed 46.65 af.
3. Within two weeks of issuance of this order, Camp Meeker shall develop a Flow Release Schedule Plan in consultation with California Department of Fish and Wildlife (CDFW) and National Marine Fisheries Service (NMFS). Camp Meeker shall provide a copy of the Flow Release Schedule Plan to the Deputy Director for Water Rights within one week of development or further revision.
4. Should NMFS, CDFW, or the North Coast Regional Water Quality Control Board raise any concerns regarding the quality of the water released for instream flow, Camp Meeker shall work with the respective agency to resolve the issue, and inform the Deputy Director for Water Rights within one week of when the concern was raised, indicating the steps taken or planned for resolution.
5. In the event Camp Meeker's diversions under Permit 21198 are curtailed pursuant to the State Water Board's June 15, 2021 Emergency Regulations for Curtailment of Diversions to Protect Water Supplies and Threatened and Endangered Fish in the Russian River, Camp Meeker shall comply with California Code of Regulations, title 23, sections 878 and 878.1 in order to continue either municipal diversions or diversions for fish and wildlife enhancement as approved by this Order.

6. On the fifteenth day of each month, Camp Meeker shall provide a summary of the previous month's monitoring of the following:
  - a. temperature and dissolved oxygen levels in Dutch Bill Creek;
  - b. the average daily release rates of water into Dutch Bill Creek, and the weekly and monthly volume of water released into Dutch Bill Creek pursuant to this Order;
  - c. the total average daily rate of water diverted and weekly volume of water diverted at the permitted point of diversion for consumptive and non-consumptive purposes; and
  - d. the weekly volume of water delivered for municipal purposes to the Camp Meeker place of use pursuant to Permit 21198.
7. By January 31, 2022, Camp Meeker shall provide the Deputy Director for Water Rights a summary report of operations that occurred in 2021 pursuant to this Order including: (a) the total monthly quantities of water diverted under Permit 21198; (b) the total monthly quantity consumptively used for municipal purposes under Permit 21198; and (c) the total monthly quantity in acre-feet and maximum monthly direct diversion rate in cfs dedicated to instream flow resources pursuant to this Order.
8. Because the changes authorized by this Order are temporary in nature, the amount of water dedicated to instream beneficial uses will not be considered during licensing of Permit 21198.
9. The State Water Board shall supervise the diversion and use of water under this Order for the protection of legal users of water and instream beneficial uses and for compliance with the conditions. Camp Meeker shall allow representatives of the State Water Board reasonable access to the project works to determine compliance with the terms of this Order.
10. The State Water Board reserves jurisdiction to supervise the temporary urgency changes under this Order and to coordinate or modify terms and conditions for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.
11. The temporary urgency changes authorized under this Order shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the State Water Board. The temporary urgency changes approved in this Order shall automatically expire 180 days from the date of this Order unless revoked prior to that date.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Erik Ekdahl, Deputy Director  
Division of Water Rights*

Dated: JUN 17 2021