

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

DIVISION OF WATER RIGHTS

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

Sonoma County Water Agency

ORDER APPROVING TEMPORARY URGENCY CHANGE

SOURCES: Dry Creek and Russian River

COUNTIES: Sonoma and Mendocino Counties

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION

On April 25, 2013, Sonoma County Water Agency (SCWA) filed a Temporary Urgency Change Petition (TUCP) with the State Water Resources Control Board (State Water Board) 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 through June 30, 2013, 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, and reduce the requirements for the lower Russian River (downstream of its confluence with Dry Creek) from 125 cfs to 85 cfs; and
- (2) From July 1 through October 28, 2013, reduce instream flow requirements for the upper Russian River from 185 cfs to 75 cfs, and reduce the requirements for the lower Russian River from 125 cfs to 85 cfs, if during the period from July 1 through October 28 storage in Lake Mendocino remains above SCWA's calculated critical storage curve (Figure 5 in SCWA's Instream Flow Analysis for 2013 Temporary Urgency Change Petition and attached as Exhibit A); or
- (3) From July 1 through October 28, 2013, further reduce instream flow requirements to 25 cfs for upper Russian River and 35 cfs for the lower Russian River, if during the period from July 1 through October 28 storage in Lake Mendocino drops below SCWA's calculated critical storage curve for more than three consecutive days.

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 28, 2013. In addition, the TUCP requests that minimum flows be based on *Critical* water supply criteria for the period from July 1 to October 28, 2013 in the event that storage in Lake Mendocino drops below SCWA's calculated critical storage curve for more than three consecutive days. This curve is shown in the attached Exhibit A.

The TUCP requests that compliance with minimum instream flow requirements as they pertain to *Dry* water supply conditions be measured based on a 5-day running average of average daily stream flow measurements, with the condition 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 70 cfs. This measurement of compliance with minimum instream flow requirements will allow SCWA to manage stream flows with smaller operational buffers, thereby conserving water supply in Lake Mendocino. If after July 1 the water supply condition changes to *Critical*, the TUCP requests that compliance with minimum instream flow requirements be measured on an instantaneous basis.

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

The request is made to prevent severe depletion of storage in Lake Mendocino, which would gravely impact threatened or endangered Russian River fish species, create serious water supply impacts in Mendocino County and in Sonoma County's Alexander Valley, and harm Lake Mendocino and Russian River recreation.

2.0 BACKGROUND

SCWA's TUCP 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 year-round direct diversion of 20 cfs from the Russian River at the Wohler and Mirabel Park Intakes near Forestville.
- Permit 12950 is 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 is 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.

SCWA submitted with the TUCP a document prepared by its staff titled, "Instream Flow Analysis for 2013 Temporary Urgency Change Petition" (Analysis) dated April 2013. The Analysis indicates that since mid-February, Lake Mendocino storage levels have declined by approximately 10,000 acre-feet. This rapid decline in storage from mid February to date is similar to higher rates of decline that normally occur in the late summer. The rate of decline and low storage levels are the result of the unusually low rainfall in the region this winter. Precipitation records for Ukiah indicate 4.75 inches of rainfall in the area since January 1, which is just 22.8% of the average for this period based on records going back to 1952. Without the requested reductions in minimum instream flow requirements, the storage levels in Lake Mendocino are projected to decline to below 20,000 AF by October 1 due to releases to meet downstream water demands and the anticipated minimum instream flow requirements on the Russian River. The extremely low projected storage level in Lake Mendocino could severely impact listed and threatened Russian River fish species, create serious water-supply impacts in Mendocino County and the Alexander Valley in Sonoma County, and harm Lake Mendocino and Russian River recreation.

As of April 16, 2013, the water supply storage level in Lake Sonoma was 96 percent of the available conservation pool. Consequently, no changes to the instream flow requirements for Dry Creek are requested in the TUCP. However, 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 river. Consequently, increased releases from Lake Sonoma into Dry Creek

would be necessary to maintain Decision 1610 minimum instream flow requirements on the lower Russian River. However, such increased releases into Dry Creek would result in SCWA violating 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.

Following is the language contained in SCWA's permits regarding minimum instream flow requirements:

Term 20 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 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 af 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 af or 90 percent of the estimated water supply storage capacity of the reservoirs, whichever is less, and 130,000 af 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

 - (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 af 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 predetermined 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 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 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 water-year classification definitions as those listed in Permit 12947A. 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 unusually low, cumulative inflow into Lake Pillsbury during this water year has been sufficiently high that, under Decision 1610, 2013 is currently classified as a *Normal* year and, based on current hydrologic trends, SCWA anticipates *Normal-Dry Spring 2* water supply conditions starting June 1.

3.0 COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

SCWA has determined that the requested temporary urgency change is statutorily and categorically exempt under the California Environmental Quality Act (CEQA). SCWA found that the change is consistent with the statutory exemption criteria for an emergency project as well as the Class 1, 7, and 8 categorical exemption criteria. The State Water Board has reviewed the information submitted by SCWA and has made its own independent finding that the temporary urgency change is statutorily and categorically exempt under CEQA for the following reasons:

- As of April 16, 2013, the storage level in Lake Mendocino was 62 percent of the available water conservation pool and rapidly declining. Information provided by SCWA demonstrates that continued releases of water under *Normal-Dry Spring 2* year operating rules would prematurely drain the remaining storage. If storage in Lake Mendocino is depleted, water will not be available to support threatened and endangered species, agriculture, and domestic/municipal water service. 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).)

- 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 existing operational parameters established by Decision 1610. The proposed action does not request and will not expand the water supply available to SCWA for consumptive purposes.
- The proposed action will assure the maintenance of a natural resource, i.e., the instream resources of the Russian River, by reserving water in Lake Mendocino to benefit adult Chinook salmon migrating upstream in the fall, and accordingly is categorically exempt from CEQA pursuant to a Class 7 exemption. 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.)
- 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 PUBLIC NOTICE OF THE TEMPORARY URGENCY CHANGE PETITION

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(a). Pursuant to Water Code section 1438(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. The State Water Board will post the notice of the temporary urgency change and the TUCP (and accompanying materials) on its website. The State Water Board also will distribute the notice through an electronic notification system. Pursuant to Water Code section 1438, the State Water Board may issue a temporary change order in advance of the required notice.

5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Water Code section 1435 provides that a permittee or licensee who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for a conditional temporary change order. The State Water Board's regulations set forth the filing and other procedural requirements applicable to TUCPs. (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” 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, an urgent need exists for the proposed flow changes on the upper Russian River because SCWA predicts near depletion of water supply storage in Lake Mendocino by October 1, 2013 unless the requested TUCP is approved. Water supplies sufficient to support survival of listed Russian River salmonid fisheries, agricultural and municipal use, and recreation are at risk. Without the proposed changes, SCWA would need to release additional stored water from Lake Mendocino, which would result in the significant depletion of storage during the summer and reduce water supplies needed for fishery protection and stable flows in the upper Russian River during the fall when spawning state and federally listed fish species are most sensitive to flow and water temperatures. An urgent need exists for the proposed changes on the lower Russian River because SCWA will violate the Incidental Take Statement contained in the Biological Opinion unless the requested temporary urgency change is approved.

The depletion of storage in Lake Mendocino that would occur if the TUCP is not approved also would result in the potential elimination of water supplies for water users in Mendocino County and northern Sonoma County (above the confluence with Dry Creek) during the fall, which would cause serious impacts to human health and welfare. SCWA predicts that without the proposed change, Lake Mendocino will be drawn down to storage levels that would jeopardize SCWA’s ability to release water to the Russian River. In this event, water supplies for domestic and municipal uses of Russian River water would be severely impaired. Moreover, as discussed in Decision 1610, Section 10.2, with less than 30,000 acre feet of carry-over storage, Lake Mendocino’s reliability as a storage facility is impaired. SCWA’s permits include terms requiring a 50 percent reduction in deliveries to Redwood Valley County Water District when Lake Mendocino storage drops below 30,000 acre feet in order to preserve Lake Mendocino water supply reliability. The purpose of this order is, in part, to prevent Lake Mendocino storage from dropping below 30,000 acre feet. The SCWA’s forecasts indicate that Lake Mendocino storage will drop below 30,000 acre feet during August 2013 unless the TUCP is approved. Furthermore, if the upcoming Water Year 2014 is a dry or critical year, carryover storage in Lake Mendocino from 2013 will be crucial for the continued recovery of the Russian River salmonid fishery and water supply reliability during 2014. For the reasons stated above, an urgent need for the proposed change exists.

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 the amounts of water to which they are legally entitled during the period of reduced minimum flows specified in this Order. Moreover, failure to implement the reduced instream flow could result in severe depletion of Lake Mendocino, which in turn could result in serious impacts to entitled users of water downstream of Lake Mendocino later in the year. 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 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

Although flows in the main stem Russian River will be reduced upon approval of this TUCP, prevention of the depletion of storage in Lake Mendocino is crucial for fishery resources. Conservation of water in Lake

Mendocino will insure water is available to support Chinook salmon migration and spawning in early fall. Also, minimum instream flows lower than those required by Decision 1610 could encourage formation of a closed or perched lagoon at the mouth of the Russian River and therefore noticeably enhance the salmonid estuarine rearing habitat while preventing flooding of adjacent properties.

SCWA's TUCP under *Critical* water supply conditions seeks a minimum instream flow requirement in the lower Russian River of 35 cfs, from July 1 through October 28, 2013, if during that period Lake Mendocino drops below SCWA's calculated critical storage curve for more than three consecutive days. Previous TUCP orders required SCWA to implement temporary reductions of diversions from the Russian River to ensure beneficial use of water resources to the fullest extent possible and to prevent waste of water. SCWA identified that past reductions in diversions resulted in increased groundwater pumping by the cities and special districts that purchase wholesale water from SCWA. This response has the unintended consequence of stressing local groundwater resources even though adequate surface water is available from Lake Sonoma.

Notwithstanding the potential impact to groundwater resources, to minimize impacts to water quality, recreation, and other water users along the lower Russian River, to the extent feasible, this Order requires a minimum instream flow in the lower Russian River of 50 cfs instead of 35 cfs if *Critical* water supply conditions are required. This will be accomplished through a combination of SCWA reducing its diversions by as much as 25 percent and releasing additional water from Lake Sonoma. Compliance with the *Critical* water supply condition in the lower Russian River shall be measured based on a 5-day running average of average daily stream flow measurements, with the condition that instantaneous flows on the lower Russian River shall be no less than 35 cfs. In the event that SCWA can demonstrate that there is an urgent need for a further reduction in this minimum flow requirement to the originally requested 35 cfs, this Order may be amended to make such change.

It is possible that reduced flows in the Russian River may impair some instream beneficial uses, principally recreation uses. However, since 2004, Russian River flows have frequently been managed at decreased levels, both under Decision 1610 and under other temporary urgency change orders. Notwithstanding lower flows, Russian River recreation has continued. Accordingly, although recreation uses may be affected, considering the potential grave impacts to fisheries, water supply, and recreation in Lake Mendocino that could occur if the TUCP were not approved, any impact on recreation for this summer is reasonable under the circumstances.

SCWA has been required to collect water quality and fishery information and data during periods when reduced minimum flow requirements are in effect. These monitoring activities are summarized in annual reports intended to evaluate whether and to what extent the reduced flows caused any impacts to water quality and availability of aquatic habitat for salmonids. This information serves 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. Under this order, similar monitoring and reporting criteria will be required.

SCWA also strives to make water available for reasonable beneficial use and to preserve instream values by continuing to work on water use efficiency. As part of this goal, SCWA continues to work with its Water Contractors to achieve SBx7-7's goal of reducing per capita water use 20 percent by the year 2020. Additionally, the majority of SCWA's Water Contractors require their dedicated irrigation customers be assigned a water budget designed to achieve a maximum applied water allowance of 60 percent ETo, which exceeds the State's Water Efficient Landscape Ordinance requirements.

5.4 The Proposed Change is in the Public Interest

Approval of this TUCP will help conserve stored water in Lake Mendocino so that it can be released for listed Russian River salmonid fisheries present in the Russian River during the fall Chinook salmon migration season. In addition, approval of this TUCP will help preserve storage in Lake Mendocino as a

precaution in case 2014 also is a dry water year. It is in the public interest to preserve water supplies for these beneficial uses when hydrologic circumstances cause severe reductions to water supplies. To further ensure preservation of water supplies in the public interest, this order includes requirements for conservation planning.

SCWA reported that requirements to meet specific conservation goals in Sonoma and Mendocino County that were imposed as conditions of approval of a TUCP filed by SCWA in 2009 were not effective outside of SCWA's service district, with the exception of water users who voluntarily cooperated. Therefore, there is a need to evaluate other long term solutions. As such, this order retains previous requirements to coordinate regarding conservation actions, and includes a new requirement to develop a water supply reliability evaluation and report, including recommendations for future water management practices to improve Lake Mendocino water supply reliability. Taking steps to improve the reliability of Lake Mendocino's water supplies will minimize potential future impacts to threatened and endangered fish species, water users, water quality, recreation, and other beneficial uses along the upper and lower Russian River in future years of water scarcity.

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 temporary urgency change in Permits 12947A, 12949, 12950, AND 16596 is approved, in part.

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

1. From the date of this Order until October 28, 2013, minimum flows 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 be as follows:
 - (1) From May 1, 2013 through June 30, 2013, minimum instream flow shall remain at or above 75 cubic feet per second (cfs);

- (2) From July 1 through October 28, 2013, minimum instream flow shall remain at or above 75 cfs, if during the period from July 1 through October 28 storage in Lake Mendocino remains above SCWA's calculated critical storage curve (shown in attached Exhibit A);
 - (3) From July 1 through October 28, 2013, minimum instream flow shall remain at or above 25 cfs, if during the period from July 1 through October 28 storage in Lake Mendocino drops below SCWA's calculated critical storage curve for more than three consecutive days;
 - (4) After a cumulative seasonal total of 200 adult Chinook salmon move upstream past the SCWA Mirabel inflatable dam, 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 125 cfs.
- B. Minimum instream flow in the **lower Russian River (from its confluence with Dry Creek to the Pacific Ocean)** shall be as follows unless the water level in Lake Sonoma is below 292.0 feet with reference to the National Geodetic Vertical Datum of 1929, or unless prohibited by the United States Government:
- (1) From May 1, 2013 through June 30, 2013, minimum instream flow shall remain at or above 85 cubic feet per second (cfs).
 - (2) From July 1 through October 28, 2013, minimum instream flow shall remain at or above 85 cfs, if during the period from July 1 through October 28 storage in Lake Mendocino remains above SCWA's calculated critical storage curve;
 - (3) From July 1 through October 28, 2013, minimum instream flow shall remain at or above 50 cfs, if during the period from July 1 through October 28 storage in Lake Mendocino drops below SCWA's critical storage curve for more than three consecutive days.
- C. For purposes of compliance with this term, the minimum instream flow requirement between May 1, 2013 and June 30, 2013, and the minimum instream flow requirement in place when storage in Lake Mendocino is above SCWA's calculated critical storage curve (*Dry* water supply conditions) shall be measured based on a 5-day running average of average daily stream flow measurements, with the condition 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 70 cfs. The minimum instream flow requirement in place when storage is below SCWA's calculated critical storage curve for more than three consecutive days (*Critical* water supply conditions) shall be measured based on an instantaneous basis in the upper Russian River and based on a 5-day running average of average daily stream flow measurements in the lower Russian River, with the condition that the instantaneous flows shall be no less than 35 cfs.
2. The Deputy Director for Water Rights (Deputy Director) reserves authority to approve the 35 cfs requirement that was sought initially under Critical water supply conditions in the lower Russian River upon a request from SCWA supported by an updated instream flow and hydrologic analysis demonstrating the urgent need for the requested change and supporting the findings that the change (1) will not result in injury to any lawful user, (2) will not unreasonably affect fish, wildlife, or other instream beneficial uses, and (3) will be in the public interest. If authorized by the Deputy Director, compliance with the 35 cfs minimum instream flow requirement shall be measured on an instantaneous flow basis.
 3. To protect against stranding of fish when releases from Lake Mendocino are converted from *normal-year* to *Dry* water supply conditions, or from *Dry* water supply conditions to *Critical* water supply conditions, 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 at the direction of the NMFS and the CDFW.
4. SCWA shall monitor and record daily numbers of adult Chinook salmon moving upstream past the Mirabel inflatable dam beginning no later than September 1, 2013, and continuing through at least November 15, 2013.
 5. If adult Chinook salmon can enter the Russian River estuary, SCWA shall monitor numbers of adult Chinook salmon in representative deep pools in the Lower Russian River downstream of the Mirabel inflatable dam on a weekly basis beginning September 15, 2013, and ending when 200 fish have passed Mirabel Dam, when sustained flows in the Russian River at Hacienda Bridge are greater than 125 cfs, or on November 15, 2013, whichever is earliest.
 6. SCWA shall monitor numbers of adult Chinook salmon 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 Chinook salmon counted at Mirabel Dam exceeds 200 fish. Weekly surveys shall continue until November 15, 2013, or when sustained flow at Healdsburg is above 185 cfs, whichever is earlier.
 7. If after July 1 the water supply condition changes to *Critical* water supply conditions, then SCWA shall measure water depth and velocity to conduct an assessment of adult Chinook salmon passage at a total of 9 riffles; 3 each in the lower, middle, and upper reaches of the Russian River.
 8. SCWA shall monitor juvenile salmonids and other native fishes by snorkel survey at six sites in the Upper main stem Russian River (upstream of Mirabel) between August 2013 and September 15, 2013, when suitable visibility conditions exist.
 9. Consistent with the requirements of the Biological Opinion, SCWA shall monitor downstream movement of juvenile salmonids in Dry Creek and the main stem Russian River at Mirabel Dam and monitor and record juvenile salmonid population and life history data at the Russian River Estuary (when river conditions permit safe monitoring).
 10. SCWA shall report to NMFS and CDFW every two weeks regarding the applicable fisheries monitoring activities specified in Terms 3 through 9 of this Order. If water supply conditions adjust to Critical water supply conditions after July 1, then SCWA will report on a weekly basis ending when sustained flows are above Decision 1610 flows or when this Order expires whichever is first. Consistent with the Biological Opinion, SCWA shall consult with NMFS and CDFW regarding any necessary adaptations to the monitoring program including revisions to Terms 3 through 9. Upon consultation with NMFS and CDFW, any necessary revisions to Terms 3 through 9 shall be made upon approval by the Deputy Director. Reporting of fisheries monitoring tasks described in Terms 3 through 9 shall be submitted to the Deputy Director by April 1, 2014 in accordance with NMFS and CDFW annual reporting requirements as more fully described in the Biological Opinion.
 11. SCWA shall prepare a Water Quality Monitoring Plan (Monitoring Plan) for the Russian River in consultation with: (1) the North Coast Regional Water Quality Control Board; (2) the United States Geological Survey; (3) NMFS; and (4) the Division of Water Rights. The purpose of the Plan shall be to determine the water quality effects and effects to the availability of aquatic habitat for salmonids resulting from the temporary urgency change approved herein. At a minimum, the following water quality parameters in the Monitoring Plan shall be evaluated: water temperature, pH, dissolved oxygen, specific conductivity, bacteria, nutrients, and algae. Furthermore, the Monitoring Plan should build upon previous water quality studies that have been conducted in the Russian River and the estuary water quality monitoring required by the Biological Opinion and include a Quality Assurance Project Plan or description of an existing quality assurance protocol

to be followed. The Monitoring Plan may provide information to support the development of a CEQA document required for permanent changes to Decision 1610. The Plan shall be submitted to the Deputy Director for approval within 28 days of the date of this Order, and SCWA shall immediately implement the Monitoring Plan upon submittal.

12. SCWA shall summarize all data collected during the 2013 water quality monitoring program. 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 the availability of aquatic habitat for salmonids and recreation. The report shall be submitted to the Deputy Director by March 31, 2014.
13. 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.
14. 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.
15. The 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.
16. SCWA shall provide a written update to the Deputy Director by March 31, 2014, regarding activities and programs being implemented by SCWA and its water contractors to assess and reduce water loss, promote increasing water use efficiency and conservation, and improve regional water supply reliability. The written update shall include a report regarding the actual maximum applied water allowance (MAWA) achieved by each of SCWA's contractors during May through November 2013.
17. SCWA shall work with the Russian River water users above the confluence with Dry Creek that are specified in this term to evaluate the long-term reliability of Lake Mendocino to meet water supply and environmental water demands and shall prepare a report of its findings. SCWA shall contact the specified Russian River water users listed below and request that they participate and support SCWA's evaluation by providing information regarding their current water demands, potential future land use changes and forecasts of water demands. For purposes of this Order, the specified Russian River water users are: Mendocino County, Sonoma County, Mendocino County Russian River Flood Control and Water Conservation District, Millview County Water District, Rogina Water Company, Willow County Water District, Redwood Valley County Water District, City of Ukiah, Hopland Public Utility District, City of Healdsburg, City of Cloverdale and Geyserville Water Works Public Utility District. SCWA may also contact other water users and seek their cooperation in its evaluation. The water supply reliability evaluation and report shall analyze the potential impacts to Lake Mendocino storage due to climate change, future potential land use practices and forecasted water demands to the extent existing information is available or provided by the entities. The evaluation and report shall also include recommendations for future water management practices to improve Lake Mendocino water supply reliability. SCWA shall provide a status report to the Deputy Director by December 31, 2013 identifying the entities that have been contacted and the responses of those entities to SCWA's request that they participate in the reliability evaluation. SCWA shall submit the final water supply reliability evaluation and report to the Deputy Director by December 31, 2014.

18. SCWA shall provide a written update to the Deputy Director regarding the progress of the Santa Rosa Plain Groundwater Management Planning Program by March 31, 2014. The update shall include a discussion of: (1) progress being made toward implementation of groundwater recharge in the Santa Rosa basin; and (2) efforts by SCWA and its water contractors to conjunctively manage surface water and groundwater resources within SCWA's service area. Such management should emphasize the conservation and replenishment of groundwater resources and utilization of available surface water supplies to the extent feasible.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: May 1, 2013

Attachment: Exhibit A

Lake Mendocino 2013 Critical Storage Curve
4/15/2013

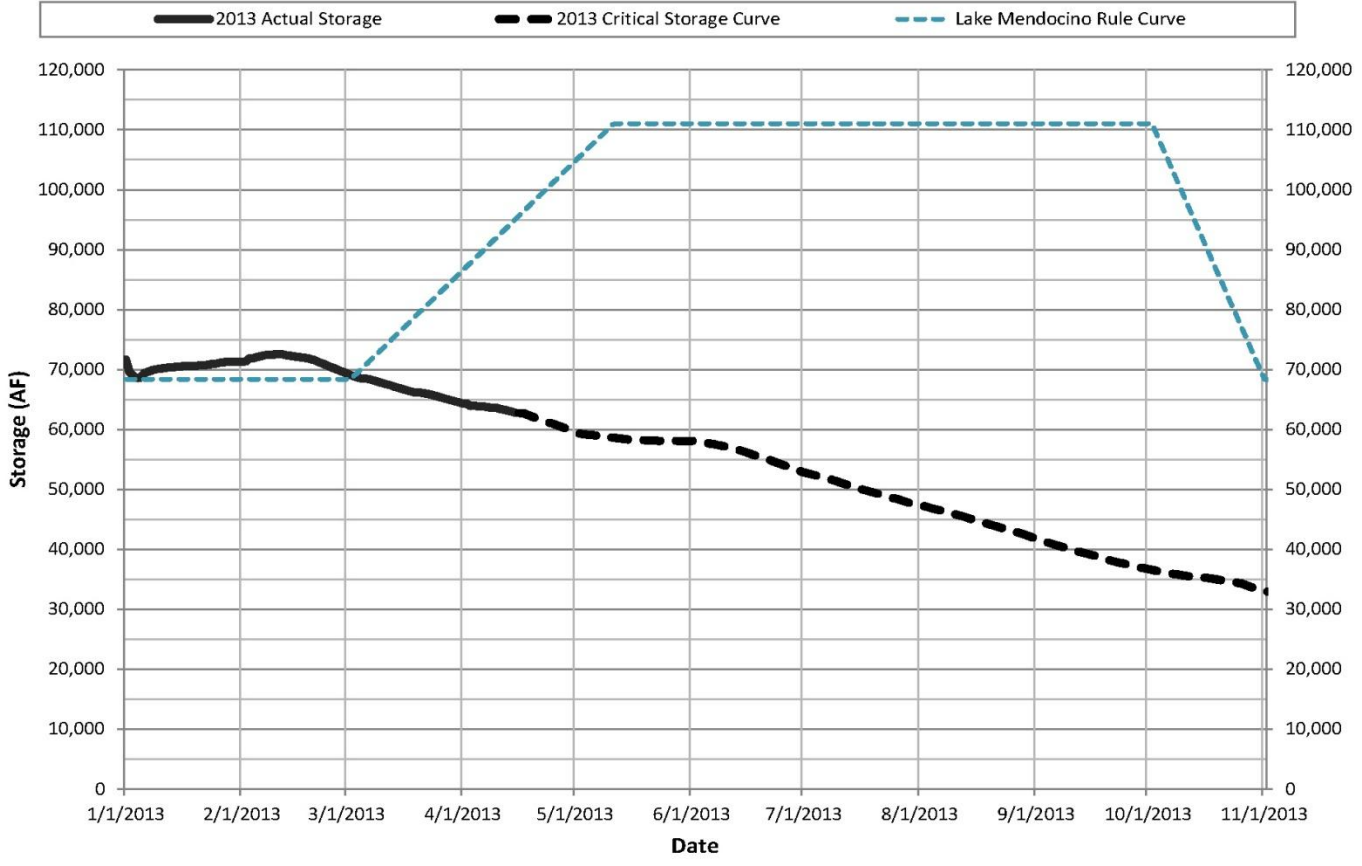


Exhibit A - SCWA Calculated Critical Storage Curve for Lake Mendocino