

NOTICE OF EXEMPTION

To: X Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

From: Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403

X County Clerk
County of Sonoma
Santa Rosa, CA 95401

X County Clerk
County of Mendocino
Ukiah, CA 95482

Project Title: Petition by Sonoma County Water Agency Requesting Approval of a Temporary Urgency Change in Permits 12947A, 12949, 12950 and 16596 in Mendocino and Sonoma Counties (Applications 12919A, 15736, 15737, and 19351): 2017 Temporary Changes to Minimum Instream Flow Requirements of Decision 1610.

Project Location-Specific: The proposed action would occur in Mendocino and Sonoma counties at Lake Mendocino, in the Upper Russian River from Coyote Valley Dam/Lake Mendocino to the confluence with Dry Creek, and in the Lower Russian River from its confluence with Dry Creek to the Pacific Ocean. Figure 1 shows the streamflow requirements for the Russian River system. Communities and cities along the Russian River include Ukiah, Hopland, Cloverdale, Geyserville, Healdsburg, Forestville, Mirabel Park, Rio Nido, Guerneville, Monte Rio, Duncans Mills, and Jenner.

Project Location – City: N/A **Project Location – County:** Mendocino and Sonoma

Project Background: The National Marine Fisheries Service (NMFS) issued its *Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed* (Russian River Biological Opinion) on September 24, 2008.¹ NMFS concluded in the Russian River Biological Opinion that the continued operations of Coyote Valley Dam and Warm Springs Dam by the U.S. Army Corps of Engineers and Water Agency in a manner similar to recent historic practices, together with the Water Agency's stream channel maintenance activities and estuary management, are likely to jeopardize and adversely modify critical habitat for endangered Central California Coast coho salmon and threatened Central California Coast steelhead.

The Water Agency controls and coordinates water supply releases from the Coyote Valley Dam and Warm Springs Dam projects in accordance with the minimum flow requirements that Decision 1610, adopted by the State Water Resources Control Board (SWRCB) in 1986, added to the Water Agency's water right permits. NMFS' Russian River Biological Opinion requires changes to the Decision 1610 minimum instream flow requirements to enable alternative flow management scenarios that will increase available rearing habitat in Dry Creek and the upper Russian River, and provide a lower, closer-to-natural inflow to the estuary between late spring and early fall, thereby enhancing the potential for maintaining a seasonal freshwater lagoon that will likely support increased production of juvenile steelhead and salmon.²

¹ NMFS' Russian River Biological Opinion may be accessed online at www.sonomacountywater.org and may be reviewed at the Water Agency's office at 404 Aviation Boulevard, Santa Rosa, CA.

² National Marine Fisheries Service. *Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed*. p. 243. September 2008.

As required by the Russian River Biological Opinion, in September 2009 the Water Agency filed a petition with the SWRCB to make permanent changes to the Decision 1610 minimum instream flow requirements. This petition presently is pending before the SWRCB. The SWRCB will not act on this petition until the necessary environmental impact report is prepared and the water-rights issues associated with this petition are resolved.

Until the SWRCB issues an order on this petition, the Water Agency must maintain the minimum instream flows adopted in Decision 1610, with resulting impacts to listed salmonids identified in NMFS' Biological Opinion, unless temporary changes to these requirements are authorized by the SWRCB. To help restore freshwater habitats for listed salmon and steelhead, the Biological Opinion requires that the Water Agency petition the SWRCB for temporary changes to minimum instream flow requirements beginning in 2010 and for each year thereafter until the SWRCB issues an order on the Water Agency's petition for the permanent changes to the Decision 1610 minimum instream flow requirements. NMFS' Biological Opinion does not contain any alternative mechanism for complying with its terms while the SWRCB is considering permanent changes to Decision 1610. Filing for an annual temporary change is the only way the Water Agency is able to remain in compliance with the Biological Opinion and be prevented from having take liability under the Endangered Species Act. The temporary changes include a reduction in the minimum instream flow to 70 cubic feet per second (cfs) in the lower Russian River between May 1 and October 15, with the understanding that, because of the need to maintain an operational buffer above this minimum requirement, the Water Agency typically will maintain a flow of about 85 cfs at this point. Additionally, for the purposes of enhancing steelhead rearing habitat between the East Fork and Hopland, the temporary changes include a reduction in the minimum instream flow to 125 cfs in the upper Russian River between May 1 and October 15.³ NMFS' Russian River Biological Opinion only requires petitions for temporary changes to minimum streamflows on the mainstem Russian River, and not on Dry Creek. This petition does not seek any changes in the Dry Creek minimum-flow requirements adopted in Decision 1610.

Description of Nature, Purpose and Beneficiaries of Project: To comply with the requirements of the Russian River Biological Opinion, the Water Agency is filing a temporary urgency change petition with the SWRCB that asks the SWRCB to temporarily change the instream flow requirements for the Russian River mainstem that were adopted in Decision 1610 and now are in the Water Agency's water right permits between May 1 and October 15, 2017, to the following (Figure 2): (a) a minimum instream flow requirement of 125 cfs in the upper Russian River (upstream of the confluence with Dry Creek and downstream of the confluence of the East and West Forks), measured as a 5-day running average of average daily streamflow measurements with a provision that instantaneous flows will not be less than 110cfs. and (b) 70 cfs in the lower Russian River (downstream of its confluence with Dry Creek), measured as a 5-day running average of average daily streamflow measurements with a provision that instantaneous flows will not be less than 60 cfs.

Decision 1610 specifies the minimum instream flow requirements for Dry Creek and the Russian River (see Figure 1). These requirements vary based on defined hydrologic conditions. If approved, the requested reductions in Russian River instream flow requirements will be in effect May 1 through October 15, 2017. Under Normal water supply conditions, the Decision 1610 minimum flow requirements during this time period could be as high as 185 cfs in the upper Russian River, 125 cfs in the lower Russian River, and 80 cfs in Dry Creek. Under the proposed temporary change, the minimum flow requirements during the period of the temporary change could be as low as 110cfs in the upper Russian River and 60 cfs in the lower Russian River. No temporary change in the Dry Creek minimum flow requirements is required by the Biological Opinion or proposed and the minimum flow requirement in Dry Creek will remain at 80 cfs during the temporary change period. The proposed temporary changes in Russian River instream flow requirements will not result in any unusual circumstances, because the proposed minimum instream flow requirements are within the range of those that already occur during Dry and Critical water supply conditions under Decision 1610.

³ National Marine Fisheries Service. Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed. p 247. September 2008.

During the period that the proposed temporary flow changes are in effect, the Water Agency will also monitor water quality and fish, and collect and report information and data related to monitoring activities, as required by NMFS' Russian River Biological Opinion.

Name of Public Agency Approving Project: State Water Resources Control Board - Division of Water Rights

Name of Person or Agency Carrying Out Project: Sonoma County Water Agency

Exempt Status: (check one)

<input checked="" type="checkbox"/>	Ministerial (Sec. 21080(b)(1); 15268)	Section 15268(a): Ministerial Action
<input type="checkbox"/>	Declared Emergency (Sec. 21080(b)(3); 15269(a))	
<input type="checkbox"/>	Emergency Project (Sec.21080 (b)(4); 15269(b)(c)):	
<input checked="" type="checkbox"/>	Categorical Exemption. State type and section number:	State CEQA Guidelines 15307: Actions by Regulatory Agencies for Protection of Natural Resources State CEQA Guidelines 15308: Actions by Regulatory Agencies for Protection of the Environment State CEQA Guidelines 15301(i): Existing Facilities
<input type="checkbox"/>	Statutory Exemptions. State code number:	

Reasons why project is exempt: The proposed action is a ministerial action under CEQA Statute 21080(b)(1) and categorically exempt from the California Environmental Quality Act (CEQA) under the State CEQA Guidelines Sections 15307, 15308, and 15301(i).

A. Ministerial Action

California Public Resources Code, Division 13, Section 21080(b)(1) provides that ministerial projects proposed to be carried out or approved by public agencies are exempt from CEQA where the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, Section 15002(i)(1). In order to comply with the Endangered Species Act, the Water Agency is required by NMFS' Russian River Biological Opinion to annually apply for a temporary urgency change petition with the SWRCB that asks the SWRCB to temporarily change the instream flow requirements for the Russian River mainstem that were adopted in Decision 1610 until a permanent decision is made.

B. Actions by Regulatory Agencies for Protection of Natural Resources and the Environment

CEQA Guidelines Sections 15307 and 15308 provide that actions taken by regulatory agencies to assure the maintenance, restoration or enhancement of a natural resource and the environment are categorically exempt from CEQA. If approved, the proposed changes in Russian River minimum instream flow requirements will increase available rearing habitat in the upper Russian River and provide a lower, closer to natural inflow to the estuary between late spring and early fall, thereby enhancing the potential for maintaining a seasonal freshwater lagoon that could support increased production of juvenile steelhead. NMFS' Russian River Biological Opinion states that these changes are necessary to avoid jeopardizing the continued existence of the listed species.⁴

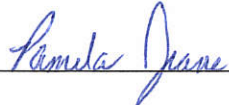
C. Existing Facilities

Guidelines Section 15301(i) provides, generally, that the operation of existing facilities involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination is categorically exempt from CEQA. Subdivision (i) of Section 15301 specifically includes maintenance of streamflows to protect fish and wildlife resources. The Water Agency's petition to the SWRCB to change to the instream flow requirements specified in the

⁴ National Marine Fisheries Service. Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation District in the Russian River Watershed. p. 247. September 2008.

Russian River Biological Opinion does not request and will not expand Water Agency use or increase the water supply available to the Water Agency for consumptive purposes. The proposed change in Russian River minimum instream flow requirements still will be within the existing operational parameters established by Decision 1610.

Lead Agency Contact Person: Jessica Martini-Lamb Area Code/Telephone: 707-547-1903

Signature:  for GD Date: 04/19/2017 Title: General Manager

Lead Agency Applicant Date Received for filing at OPR: _____