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

ORDER WR 2007–0021

IN THE MATTER OF PERMITS 12947A, 12949, 12950, AND 16596 (APPLICATIONS 12919A, 15736, 15737, AND 19351)

Temporary Urgency Change in Permits 12947A, 12949, 12950, and 16596 of Sonoma County Water Agency

---

SOURCES: Dry Creek and Russian River

COUNTIES: Sonoma and Mendocino Counties

ORDER AMENDING ORDER WR 2007-0015-DWR AND CONDITIONALLY APPROVING TEMPORARY URGENCY CHANGE IN PERMITS 12947A, 12949, 12950, AND 16596

1.0 INTRODUCTION

On April 27, 2007, Sonoma County Water Agency (SCWA) filed a petition with the State Water Resources Control Board (State Water Board) requesting approval of a Temporary Urgency Change to the subject permits pursuant to California Water Code section 1435. This order amends Order WR 2007-0015-DWR, which was issued by the Division of Water Rights (Division), and conditionally approves SCWA's petition.

The petition requests that from May 1 through October 28, 2007, 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) be reduced from 185 cubic feet per second (cfs) to 75 cfs, and the requirements for the lower Russian River (downstream of its confluence with Dry Creek) be reduced from 125 cfs to 85 cfs. The petition, in effect, requests that minimum flows for the Russian River be established based on dry-year criteria rather than normal-year criteria as defined in State Water Board Decision 1610. No changes to the instream flow requirements for Dry Creek are requested. The request is made to prevent storage levels in Lake Mendocino from dropping to very low levels by the end of summer. SCWA states such low levels could: (1) severely impact threatened or endangered Russian River fish species, (2) create serious water supply impacts in Mendocino County and in Sonoma County's Alexander Valley, and (3) harm Lake Mendocino and Russian River recreation.

2.0 DELEGATION

Pursuant to Resolution No. 2002-0106, the State Water Board has delegated authority to the Division Chief to act on petitions for temporary urgency change, provided no objections are outstanding. As explained below, the Division issued Order WR 2007-0015-DWR on May 10, 2007, conditionally approving the change petition. The State Water Board then provided notice of the change petition, received written comments and objections, and held a public workshop on the change petition. This Order revising Order WR 2007-0015-DWR is issued pursuant to Resolution No. 2002-0106, which delegates the authority to an individual Board Member to issue a temporary urgency change.

3.0 BACKGROUND

SCWA's petition 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 direct diversion of 20 cfs year-round 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 petition a document prepared by its staff titled, "Hydrologic Analysis of Lake Mendocino Storage Under Dry Spring Conditions" (Hydrologic Analysis) dated April 2007. The Hydrologic Analysis states that projections for Lake Mendocino water levels in 2007 are far more severe than water levels for water year 2002. During water year 2002, hydrologic conditions in the Eel River and Russian River watersheds caused Lake Mendocino storage levels to decline to dangerously low levels by the end of the dry season. Recreation at Lake Mendocino was severely impaired, and a potential existed for serious adverse impacts to the water supply and state and federally listed Russian River salmonid fishery resources, particularly adult Chinook salmon. The Mendocino County Board of Supervisors declared a state of emergency. The storage levels in Lake Mendocino dropped to a low of 24,400 acre-feet in December 2002. Water year 2004 presented similar risks of adverse impacts that were addressed by SCWA filing for, and the State Water Board approving, a Temporary Urgency Change Petition that reduced the minimum instream flow requirements on the Russian River, thereby allowing more water to remain in Lake Mendocino for a longer period of time. Even though the lake levels in 2002 and 2004 were similar at the start of the irrigation season, end-of-season storage levels were approximately 14,000 acre-feet higher in 2004, largely due to conservation of stored water resulting from the State Water Board's approval of the reductions in the instream flow requirements.

In June 2004, the Federal Energy Regulatory Commission directed Pacific Gas and Electric Company to reduce the amount of water diverted through the Potter Valley Project (PVP) tunnel into the Russian River, further reducing inflow to Lake Mendocino. Additionally, structural damage to the PVP fish screens has resulted in an inability to operate the PVP at its full capacity. Since October 2006, approximately 50,000 acre-feet less water has flowed through the PVP tunnel than during the same period in 2002.

Without the requested reductions in the instream flow requirements, Lake Mendocino storage is predicted to drop to 8,000 acre-feet (af) during October 2007 according to SCWA's Hydrologic Analysis. Lake Mendocino has never dropped below 12,000 af since it was first filled in 1959, and it is uncertain whether water could continue to be released from Lake Mendocino into the East Fork Russian River if lake storage were to drop to 8,000 af. If water cannot be released from Lake Mendocino during October and November 2007, there most likely will be severe impacts on the fishery and recreation resources that depend on the upper Russian River, and on water users that rely on the upper Russian River for their water supplies.

SCWA's permits contain the following language regarding minimum instream flow requirements:

Term 18 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 15 of both Permit 12949 and Permit 12950 require 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.

4.0 DIVISION OF WATER RIGHTS ISSUANCE OF ORDER WR 2007-0015-DWR APPROVING SCWA'S TEMPORARY URGENCY CHANGE PETITION

Pursuant to Water Code section 1438, subdivision (a), the Division issued a temporary change order, Order WR 2007-0015-DWR, conditionally approving the Temporary Urgency Change petition. Before issuing the order, the Division solicited written comments from the National Marine Fisheries Service (NMFS) and the California Department of Fish and Game (DFG) regarding the proposed temporary urgency change. These agencies support approval of the proposed temporary urgency change, with the addition of certain conditions, for the period specified in the petition. Order WR 2007-0015 DWR contained the conditions recommended by these agencies. The Division then provided notice of the temporary change order (discussed below), giving interested persons an opportunity to submit comments or objections regarding the order.

5.0 PUBLIC NOTICE OF THE PETITION

The State Water Board issued and delivered to SCWA on May 10, 2007, a notice of the proposed change. Pursuant to Water Code section 1438(b)(1), SCWA was required to publish the notice in a newspaper having a general circulation that is published within the counties where the points of diversion lie. The Notice was published in the Ukiah Daily Journal on May 18, 2007 and Santa Rosa's Press Democrat on May 21, 2007. The State Water Board mailed and emailed the Notice to the interested persons who had requested notice of proposed temporary urgency changes and to other known interested persons.

The State Water Board also provided notice of a public workshop scheduled for June 5, 2007, to receive comments regarding SCWA's Temporary Urgency Change Petition and Order WR 2007-0015 DWR. The State Water Board posted on its website (1) the notice of Order WR 2007-0015-DWR, (2) the notice of the June 5, 2007 public workshop, (3) a copy of SCWA's petition for temporary urgency change, and (4) Order WR 2007-0015-DWR.

6.0 COMMENTS REGARDING THE PETITION

In addition to the comments received from NMFS and DFG, the Division received 13 written comments and two comments by telephone. Four of the comments received expressed support for approval of SCWA's petition. Other written comments included requests for mandatory water conservation, and expressed concerns about the impacts of reduced flows on recreation, public safety, water quality and public health.

At the State Water Board's public workshop on June 5, 2007, the State Water Board heard comments from a number of attendees, including representatives from SCWA, Russian Riverkeeper, Russian River Advocates, United Wine Growers, Valley of the Moon Water District, City of Santa Rosa, Sweetwater Springs Water District, Redwood Empire Chapter of Trout Unlimited, and several private business owners and private citizens. The oral comments were similar to those expressed in writing. In general, most of commenters recognized the need for conserving water in Lake Mendocino. Some of those who commented, however, expressed concerns that reduced flows would result in impacts to recreation, public safety, and water quality in the lower Russian River and requested implementation of mandatory water conservation requirements. Comments were also received regarding recreational impacts caused by flow variability in the lower river occurring as a result of SCWA operations.

6.1 National Marine Fisheries Service

NMFS states in its April 27, 2007 letter, "An important purpose of temporarily reducing minimum flow requirements in the Russian River is so that SCWA would be able to 'bank' water in Lake Mendocino so that there would be ample storage to provide higher flows during the adult Chinook salmon migration in the Russian River." NMFS recommends that any order approving SCWA's Temporary Urgency Petition contain terms requiring both monitoring of flows and monitoring of returning Chinook salmon, and provisions for increased minimum flows that are triggered by the number of returning salmon. The purpose of the monitoring terms is to determine if adult Chinook salmon are becoming crowded in lower river pools while the dry-year criteria are in effect. Similar terms were included in the State Water Board's WR Order 2004-0035 that approved SCWA's 2004 request for a temporary urgency change.

NMFS is concerned that SCWA's request to reduce the minimum requirement to 75 cfs between the East Fork/West Fork confluence and the mouth of Dry Creek may adversely affect out-migrating juvenile salmon and steelhead during the month of May. NMFS recommends that the State Water Board employ a two-phase reduction in flow requirements so that the minimum flow for the segment between the East Fork/West Fork confluence and the mouth of Dry Creek be:

100 cfs from April 27 to May 31; and
75 cfs from June 1 to October 28

To address the issue of potential stranding of fish when releases from Lake Mendocino are converted from normal-year to dry-year criteria, NMFS suggests flows immediately below Coyote Dam not be reduced by more than 25 cfs per hour.

6.2 California Department of Fish and Game

DFG states in its memorandum of May 2, 2007 that it "concurs with SCWA's goals of water conservation in Lake Mendocino in order to provide cool water discharge for the fall Chinook salmon migration season." However, DFG shares NMFS' concerns about the out-migrating juvenile salmon and steelhead during the month of May and also believes a two-phase reduction in flow requirements is appropriate. DFG recommends that during May 1 and June 1, 2007, "discharge at Coyote Dam should remain at or above 75 cfs in order to provide a minimum measured flow of 125 cfs at the river gage located downstream of the confluence of the West and East Forks of the Russian River, north of Hopland." DFG

also recommends that terms similar to those required in the State Water Board's WR Order 2004-0035 be imposed for the 2007 season.

7.0 COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

SCWA, as Lead Agency as defined in the California Environmental Quality Act (CEQA), prepared a Notice of Exemption for this project. SCWA states in its petition "the proposed action is exempt from the California Environmental Quality Act under Classes 7 and 8 (Title 14, California Code of Regulations, sections 15307 and 15308), because it [the action proposed by the petition] would be taken to assure the maintenance of natural resources and to maintain and protect the environment. Because the instream flow requirements for dry water supply conditions are part of the State Water Board's Decision 1610 and regularly occur, this proposed action would not cause unusual circumstances under Title 14, California Code of Regulations sections 15300.2(c)."

The State Water Board has reviewed the information submitted by SCWA and has determined that the petition qualifies for an exemption under CEQA. A Class 7 exemption "consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment." (Cal. Code Regs, tit. 14, § 15307.) The proposed action will assure the maintenance of a natural resource, i.e., the instream resources of the Russian River. A Class 8 exemption "consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment." (*Id.*, § 15308.) The proposed action will assure the maintenance of the environment, i.e., the instream environment of the Russian River. On May 15, 2007 the State Water Board filed a Notice of Exemption with the Office of Planning and Research for approval of the temporary urgency change. The revisions to Order WR 2007-0015-DWR in this Order do not affect or otherwise alter the basis for the State Water Board's previously filed Notice of Exemption.

8.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Chapter 6.6 of part 2, division 2, of the Water Code, commencing with section 1435, provides that any permittee or licensee who has an urgent need to change a 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. Other terms and conditions of water right permits and licenses also may be temporarily changed through the temporary urgency change process. (See Cal. Code Regs., tit. 23, § 791, subd. (e) [directing that the procedures for changes in point of diversion, place of use, or purpose of use should be followed as nearly as possible when processing petitions for other types of changes in water right permits and licenses].) Chapter 6.6 also specifies certain procedures that must be followed and the findings that must be made before the State Water Board may issue a change order.

The State Water Board must make the findings specified in section 1435, subdivision (b), when issuing a temporary change order pursuant to chapter 6.6. The required findings are:

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, including findings to support change order conditions imposed to ensure that the change is in the public interest, and may be made without injury to any other lawful user of the water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

8.1 Urgency of the Proposed Change

Under Water Code section 1435, subdivision (c), an urgent need to make a proposed change exists when the State Water Board concludes 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 a petitioner's need to be 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 change because Water Year 2007 is following a pattern similar to Water Year 2002, when hydrologic conditions caused the storage in Lake Mendocino to decline to low levels. At the low storage levels, water supplies to support survival of listed Russian River salmonid fisheries, particularly adult Chinook salmon, are threatened, and recreation at Lake Mendocino is impaired. Without the proposed change, SCWA would need to release additional stored water from Lake Mendocino during the summer, resulting in a reduction in the cold water pool in Lake Mendocino, which is needed to sustain cooler and more stable flows in the upper Russian River during the fall, when state and federally listed fish species are sensitive to flows and temperatures. Additionally, hydrologic forecasts for Water Year 2007 indicate Lake Mendocino water levels may drop below levels observed in 2002 absent approval of the petition, which could create serious water supply impacts. Further, if Water Year 2008 is a dry or critically dry year, extra storage in Lake Mendocino will be crucial for the continued survival of these fish during 2008.

8.2 No Injury to Any Other Lawful User of Water

The SCWA is required to maintain specific flows at various locations in the Russian River from its most upstream point of diversion to the river's confluence with the ocean. Therefore, SCWA must release sufficient water to satisfy diversions by both lawful and unlawful water users. It is anticipated that all of the SCWA water contractors and other legal users of water will receive the water to which they are entitled during the reduced flows specified in this Order.

8.3 No Unreasonable Effect Upon Fish, Wildlife, or Other Instream Beneficial Uses

Although approval of this Order will result in reduced flows downstream from Coyote Dam, conservation of the cold-water pool in Lake Mendocino will allow enhanced management of the flows in early fall for the benefit of fish migration. Releases from Lake Sonoma into Dry Creek should remain at normal-year levels, and the resultant flow below Healdsburg will remain at or above a minimum instantaneous flow of 85 cfs, at the Hacienda Bridge near Guerneville. Reduced flows in the Russian River may impair instream beneficial uses, including recreation. The potential for impairment to instream beneficial uses; however, is not unreasonable considering the potential impacts to fisheries, water supply, and recreation in Lake Mendocino that could occur if the petition were not approved. To further ensure that there are no unreasonable impacts to fish, wildlife, and instream beneficial uses, this Order contains conditions incorporating measures suggested by DFG and NMFS.

Based on comments received during the June 5, 2007 workshop, an additional term is added requiring SCWA to evaluate the feasibility of reducing diurnal flow variations caused by operation of the Wohler inflatable dam. Inclusion of this term should alleviate concerns regarding flow variability and provide more stable flows in Lower Russian River, thus benefiting fish, wildlife, instream beneficial uses and recreational users.

8.4 The Proposed Change is in the Public Interest

The proposed change will help conserve cold water in Lake Mendocino so that it can be released for listed Russian River salmonid fisheries present in the Russian River during the late summer and fall months. It is in the public interest to preserve water supplies for these beneficial uses when hydrologic circumstances or structural repairs intervene to cause dangerous reductions in these water supplies.

Approval of SCWA's petition will help SCWA maintain the level in Lake Mendocino for a longer period of time. According to SCWA estimates in its Hydrologic Analysis, if the "normal-year" water releases remain in effect, Lake Mendocino will reach minimum pool by late August 2007 and fall to 8,000 af by October 2007. However, if the Temporary Urgency Change Petition is approved for the requested period of time, Lake Mendocino storage is predicted to drop no lower than 22,000 af during October 2007.

In light of comments received regarding the need for mandatory conservation measures, and to ensure that SCWA takes all possible actions to prevent storage levels in Lake Mendocino from dropping to low levels, this order adds terms requiring SCWA to (1) temporarily reduce diversions from the Russian River by 15 percent; and (2) submit a plan detailing the actions that will be taken to work with Russian River water users to reach an overall water conservation goal of 15 percent during the term of the Order and to investigate waste and unreasonable use of Russian River water.

9.0 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 is in the public interest.

This Order revises Order 2007-0015-DWR to incorporate the terms regarding conservation measures and reducing diurnal flow variability described herein. These revisions do not substantially alter the approval issued by the Division in Order 2007-0015-DWR.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT: Order 2007-0015-DWR approving the petition filed by SCWA for temporary change in Permits 12947A, 12949, 12950, AND 16596 is amended, and the terms included in that Order are amended to read as follows:

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, 2007, minimum flows in the Russian River, as specified in Term 18 of Permit 12947A, Term 15 of Permits 12949 and 12950, and Term 13 of Permit 16596, shall be modified as follows:

    a. From May 1 through May 31, 2007, discharge from Coyote Dam shall remain at or above 75 cubic feet per second (cfs), minimum instantaneous flows shall be (1) 100 cfs at the confluence of the West Fork and East Fork Russian River; and (2) 125 cfs at the United States Geological Survey (USGS) Gage No. 11462500 located on the Russian River north of Hopland.

    From June 1 through October 28, 2007, minimum instantaneous flow in the Russian River between the confluence of the West Fork and East Fork Russian River and Dry Creek shall be:

75 cfs, except that the flow shall be not less than 125 cfs at the USGS gages at both Hopland (No.11462500) and Healdsburg (No. 11464000) on the Russian River, after a cumulative seasonal total of 200 adult Chinook salmon move upstream past the SCWA Mirabel inflatable dam. A lag time of three to seven days for the higher flows to reach Healdsburg is appropriate.

b. Minimum flow in the Russian River between its confluence with Dry Creek and 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:

85 cfs instantaneous flow, as measured at the Hacienda Bridge near Guerneville;

125 cfs instantaneous flow at the USGS gage on the Russian River at Healdsburg, within seven days after a cumulative seasonal total of 200 adult Chinook salmon move upstream past the SCWA Mirabel inflatable dam.

2. To protect against stranding of fish when releases from Lake Mendocino are converted from normal-year to dry-year criteria, flow in the East Fork Russian River immediately below Coyote Dam shall not be reduced by more than 25 cfs per hour.

3. SCWA shall not release water from Lake Sonoma in excess of the flows required to satisfy existing water rights and the interim instream flow requirement established in this Order for the Russian River downstream of it's confluence with Dry Creek.

4. SCWA shall monitor and record daily numbers of adult Chinook salmon moving upstream past the Mirabel inflatable dam beginning no later than August 15, 2007 and ending upon expiration of this Order. SCWA will consult with NMFS and the DFG on a weekly basis regarding the status and findings of the monitoring effort.

5. 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 8, 2007 and ending when sustained flows in the Russian River at Healdsburg are greater than 125 cfs or upon expiration of this Order. SCWA will consult with NMFS and DFG on a weekly basis regarding the status and findings of the monitoring effort.

6. If operations pursuant to this Order result in sustained closure of the lagoon at the terminus of the Russian River at the Pacific Ocean, or numbers of adult salmon in the Russian River are determined by NMFS to be very low through September 30, 2007, then SCWA shall immediately consult with NMFS and DFG regarding possible measures to facilitate upstream movement of salmon. SCWA shall immediately implement measures required by NMFS and DFG to facilitate the movement of salmon.

7. SCWA shall monitor numbers of adult Chinook salmon in representative deep pools in the upper Russian River (Lake Mendocino to Healdsburg) on a weekly basis on the same schedule as salmon monitoring operations required under Term 5. SCWA will consult with NMFS and DFG on a weekly basis regarding the status and findings of the monitoring effort.

8. SCWA shall submit a Temperature Monitoring Plan for Lake Mendocino and the Russian River within two weeks after the adoption of this Order. The Plan shall provide a detailed description of temperature monitoring efforts necessary for determining the temperature impacts resulting from changes approved by this Order. SCWA shall implement the Plan immediately upon its approval by the Division.

9. SCWA shall prepare a Water Quality Monitoring Plan for the Russian River in consultation with: (1) the North Coast Regional Water Quality Control Board, (2) the United States Geological Survey, and (3) the Division of Water Rights. The purpose of the Plan shall be to determine the water quality effects of the temporary urgency change approved herein. The Plan shall be submitted to the Chief of the Division for approval within two weeks of the date of this Order. SCWA shall implement the Plan immediately upon approval of the Plan by the Division.

10. This Order does not authorize any act that results in the taking of a 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. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary urgency change authorized under this Order.

11. 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.

12. 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.

13. SCWA shall make a 15 percent reduction in diversions from the Russian River to its service area from July 1 until expiration of this order (October 28, 2007). This reduction shall be calculated based on permittee's actual diversion from the Russian River from July through October 2004.

14. Within 30 days of the date of this Order, the SCWA shall submit a plan to the State Water Resources Control Board to obtain the cooperation and participation of agricultural and municipal Russian River water users that are not supplied by SCWA to reach a water conservation goal of 15 percent for the period of July 1 until the expiration of this order (October 28, 2007). In addition, the plan shall include measures to identify and prevent any waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. The plan shall include a detailed schedule with planned completion dates for key events. The plan, including the schedule, is subject to approval by the Chief of the Division of Water Rights of the State Water Board in regard to its completeness and inclusion of significant project milestones. SCWA shall submit any additional information or revisions to the schedule requested within the period specified by the Division Chief. SCWA shall implement the schedule as approved by the Division Chief. SCWA shall include the following information in the plan:

    a. An explanation of SCWA's authority to impose mandatory water conservation measures and identification of the persons and entities subject to that authority.

    b. Identification of Russian River water users who are not subject to SCWA's authority to impose mandatory water conservation measures.

    c. Steps that SCWA will take to investigate the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water from the Russian River. SCWA shall submit monthly reports to the State Water Board on its progress.

    d. Steps that SCWA will take to gain the cooperation and participation of water users in conserving water and preventing the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water from the Russian River. SCWA shall submit monthly reports to the State Water Board on its progress.

15. Within 30 days of the date of this Order, the SCWA shall submit a plan to the State Water Resources Control Board to reduce diurnal flow variation downstream of the Wohler inflatable dam. The plan shall include actions that will be taken for the period of July 1 until the expiration of this order (i.e., short-term actions) and actions to be taken after the expiration of this order (i.e., long-term actions) to address flow variation caused by the inflatable dam. The plan shall also include a detailed schedule for reducing flow variation in both the short-term and long-term, including the planned completion dates for key events. The plan, including the schedule, is subject to approval by the Chief of the Division of Water Rights of the State Water Board in regard to its completeness and inclusion of significant project milestones. SCWA shall submit any additional information or revisions to the schedule requested within the period specified by the Division Chief. SCWA shall implement the schedule as approved by the Division Chief.

16. SCWA shall prepare a Water Conservation Status Report for SCWA's service area and other areas served by Lake Mendocino. The report shall specify the water conservation measures being implemented in the areas served by Lake Mendocino, and shall specify the water savings resulting from the measures during the term of this temporary urgency change. The report shall estimate water conservation savings during future years. The report shall be submitted to the Chief, Division of Water Rights by November 15, 2007. The scope and content of the report shall be similar to the report submitted to comply with WR Order 2004-0035.

STATE WATER RESOURCES CONTROL BOARD

Charles R. Hoppin
Board Member

Dated: JUN 13 2007