

Notice of Exemption Attachment

Project Title: Temporary Urgency Change Petitions for Water Right Permits 5633, 9390, and 18546

Project Applicant: Marin Municipal Water District

The State Water Board has reviewed the information submitted by Marin Municipal Water District (District) and has made its own independent finding that the requested changes are statutorily and categorically exempt from the California Environmental Quality Act (CEQA). The changes sought with the petitions are consistent with the following statutory and categorical CEQA exemptions as follows:

1. The District, Marin County, and the State of California have all recognized the extreme drought conditions in Marin County. Further, the Governor's July 8, 2021 drought emergency proclamation suspended environmental review by state and local agencies to the extent necessary to carry out actions related to drought response and mitigation. The District's reservoirs are storing less than 44 percent capacity, which is the result of severely low rainfall in the region. Further, the District typically receives about 25 percent of its supply from Sonoma County Water Agency (SCWA), which is experiencing similar drought conditions and water storage shortfalls. As a result of the drought and related plans and regulatory actions, SCWA has reduced the amount of water available to its contractors and purchasers by at least 20 percent compared to 2020. Without the changes proposed with the TUCPs, current minimum instream flow requirements would require releases of water from Kent Lake that would risk significant depletions of storage and potential reduction or elimination of water supplies for uses in the District's service area during the winter and spring of 2022. Such depletions in storage and reductions or eliminations of water supplies would cause serious impacts to human health and welfare and reduce water supplies and for fishery protections and stable flows in Lagunitas Creek in summer 2022. Therefore, the changes requested in the TUCPs are statutorily exempt from CEQA because they are necessary to prevent or mitigate an emergency due to the drought that poses a clear and imminent danger. (Pub. Resources Code, § 21080, subd. (b)(4); Cal. Code Regs., tit. 14, § 15269, subd. (c).)
2. A Class 1 categorical exemption "consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination." (Cal. Code Regs., tit. 14, § 15301.) The proposed actions consist 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.
3. A Class 7 categorical 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 temporary urgency water right changes, and the State Water Board's

approvals thereof, will ensure the maintenance of a natural resource (i.e. the instream resources of Lagunitas Creek) by conserving water in the District's reservoirs to support beneficial uses downstream of Kent Lake, including critical life stages and habitat for listed threatened and endangered species in Lagunitas Creek, and, therefore, the proposed actions are categorically exempt from CEQA pursuant to the Class 7 exemption.

4. A Class 8 categorical exemption "consists 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 temporary urgency water right changes, and the State Water Board's approvals thereof, will ensure the maintenance of the environment (i.e. the instream resources of Lagunitas Creek) by conserving water in the District's reservoirs to support beneficial uses downstream of Kent Lake, including critical life stages and habitat for listed threatened and endangered species in Lagunitas Creek, and, therefore, the proposed actions are categorically exempt from CEQA pursuant to the Class 8 exemption.