

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): 2025 Temporary Changes to Minimum Instream Flow Requirements of Decision 1610

Project Location-Specific: The project will 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 minimum instream 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 Sonoma County Water Agency (Sonoma Water) controls and coordinates water supply releases from the Coyote Valley Dam and Warm Springs Dam projects in accordance with the provisions of water rights Decision 1610, which the State Water Resources Control Board (State Water Board) adopted on April 17, 1986. Decision 1610 specifies the water supply conditions for the Russian River and the minimum instream flow requirements for the Upper Russian River, Dry Creek, and the Lower Russian River, which vary based on hydrological conditions and cumulative inflow into Lake Pillsbury as the hydrologic index.

Located in the Eel River watershed, Lake Pillsbury is a storage reservoir for Pacific Gas & Electric Company's (PG&E) Potter Valley Hydroelectric Project (PVP), which transfers water into the East Fork of the Russian River (East Fork). The PVP operated under a Federal Energy Regulatory Commission (FERC) license that expired on April 14, 2022, and now continues operations under an annual license while PG&E proceeds through a license surrender and decommissioning. An initial plan and schedule were approved by FERC on July 29, 2022, and revised in June 2024 based on PG&E's requested schedule extension. On January 31, 2025, PG&E submitted a Final Draft Surrender Application. It is expected that the Final Surrender Application will be filed by PG&E by July 29, 2025. FERC's license-surrender proceedings will likely take many years before PVP operations and long-term rules governing any imports to the Russian River watershed are resolved.

PG&E submitted a long-term flow regime request to amend flow requirements under the current FERC license on July 31, 2023. To reduce the potential seismic risk at Lake Pillsbury's Scott Dam, PG&E made the decision to keep the spillway gates open atop Scott Dam indefinitely, reducing the water storage capacity in Lake Pillsbury by approximately 20,000 acre-feet. Consequently, PG&E claims that Lake Pillsbury can no longer sustain normal operations under the current license terms. PG&E has proposed a reduction in the minimum release flow requirements for the East Fork flows starting in 2024 until project decommissioning is complete. The long-term flow regime request is still in the FERC review process. On January 30, 2025, PG&E submitted a Non-Capacity License Amendment application as requested by FERC.

In addition to these proposed reductions in minimum release requirements to the East Fork Russian River, a transformer bank failure at the PVP powerhouse in 2021 has also resulted in significant reductions in transfers of Eel River water into the Russian River. This failure caused PVP hydropower generation to cease and, with it, all associated discretionary transfers of Eel River water to the East Fork of the Russian River. On March 22, 2023, PG&E announced in a letter to the FERC that it does not intend to replace the transformer.

PG&E has indicated that without the ability to generate hydropower, PG&E will not likely make discretionary transfers through the PVP above its FERC license and contract obligations. Discretionary transfers to generate hydropower can occur up until early April if hydrologic conditions on the Eel River and at Lake Pillsbury are met. Without the discretionary transfer of Eel River water to generate hydropower, the total transfer through the PVP to the East Fork of the Russian River will be reduced by up to 456 acre-feet per day.¹

While the license amendment application is under FERC review, PG&E will continue annual requests for a temporary variance of flow requirements due to the seismic risk at Scott Dam. On February 14, 2025, PG&E submitted its request for this year. No action has been taken yet, but the request is equivalent to PG&E's request in 2024 that was approved by FERC on June 27, 2024. In that order, FERC approved changes to the minimum release flows in the Eel River and the East Fork that included: (1) a reduction in minimum release flow requirements for the Eel River below Scott Dam to the critical water year type requirement of 20 cfs; (2) a reduction in minimum release flow requirements for the East Fork immediately from 75 cfs to 25 cfs and authorized a reduction to 5 cfs if water temperatures of Lake Pillsbury releases exceeded 15 degrees Celsius; (3) the minimum release flow requirement for the East Fork to increase on September 30th to 25 cfs and remain there while the FERC order is in effect. After October 1st, the termination of the order will be dependent on when Lake Pillsbury storage exceeds 36,000 acre-feet.

Under Decision 1610, beginning June 1, the required minimum instream flows in the Upper Russian River may be modified for dry spring conditions based on the combined storage of Lake Pillsbury and Lake Mendocino on May 31. At this time, Sonoma Water is unable to confidently project reservoir levels due to the uncertainty that surrounds PG&E's FERC variance request from February 14, 2025. The timing of the variance approval is significant in the projections of reservoir storage. If the combined storage exceeds 150,000 acre-feet, the water supply condition would be *Normal* with no dry spring classifications.

Under the current Decision 1610 hydrologic index, the applicable minimum instream flow requirements may require releases of water from Lake Mendocino and Lake Sonoma at unsustainable levels if the Russian River watershed experiences significantly less rainfall than the Lake Pillsbury watershed. Given the changes to PVP operations, the influence of the Eel River water imports on downstream hydrologic conditions in the Russian River is greatly diminished. Therefore, cumulative inflow into Lake Pillsbury is no longer an appropriate metric to assess the hydrologic conditions in the Russian River watershed. Consequently, Sonoma Water requests that storage thresholds in Lake Mendocino be used as the hydrologic index to determine the water supply condition in the Russian River watershed upon which minimum instream requirements are based.

Sonoma Water's operations are also subject to the Russian River Biological Opinion issued by the National Marine Fisheries Service (NMFS) on September 24, 2008 (2008 Russian River Biological Opinion), and the consistency determination issued by the California Department of Fish and Wildlife (CDFW) on November 9, 2009.

The term of the 2008 Russian River Biological Opinion was for 15 years, thereby ending in 2023. Sonoma Water and the U.S. Army Corps of Engineers (Corps) have completed a Biological Assessment and initiated consultation with NMFS to prepare the second iteration of the Russian River Biological Opinion. California Endangered Species Act compliance for state-listed Coho salmon will be provided by incidental take permits issued by CDFW for specific Sonoma Water projects. The next Biological Opinion will have a 10-year term and is anticipated to start by the middle

¹ PVP has design flow capacities of up to 240 cubic feet per second (cfs) through the powerhouse for power generation and up to 135 cfs through the powerhouse bypass to meet FERC license requirements for minimum release flows into the East Fork Russian River and water supply contract requirements with the Potter Valley Irrigation District.

of the calendar year. To protect listed salmonids while the Biological Opinion is being prepared, Sonoma Water will continue to work with the State Water Board, Corps, NMFS, and CDFW to implement flows required by the 2008 Russian River Biological Opinion.

NMFS' 2008 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

Description of Nature, Purpose and Beneficiaries of Project: Sonoma Water seeks temporary urgency changes to its four water-right permits used to provide wholesale water to cities and water districts in Sonoma and Marin counties. The request includes changes to the hydrologic index as well as modifications to the minimum instream flow requirements which were established by the State Water Board's Decision 1610. The hydrologic index changes are necessary to ensure that the designated water supply condition and corresponding minimum instream flow requirements in the Russian River watershed are aligned with actual watershed hydrologic conditions, which is essential to maintain sustainable reservoir and river operations protecting municipal water supply and listed salmon species. Additionally, changes to reduce the dry season minimum instream flow requirements are necessary under a *Normal* water supply condition to comply with the findings of the 2008 Russian River Biological Opinion.

In addition to this warranted change to the hydrologic index to establish an appropriate water supply condition, Sonoma Water requests that under the case of a *Normal* water supply condition from May 1 through October 15 that the minimum instream flow requirements be modified to comply with the 2008 Russian River Biological Opinion issued by NMFS. Prior to the 15-year term of the Biological Opinion ending in 2023, Sonoma Water and the Corps have been working with NMFS and coordinating with CDFW on a successor Biological Opinion. It is anticipated that the successor Biological Opinion will be released by the middle of the calendar year. To protect listed salmonids while the Biological Opinion is being finalized, Sonoma Water will continue to work with the State Water Board, Corps, NMFS, and CDFW to implement the flows required under the 2008 Russian River Biological Opinion.

Approval of these petitions would provide alternative criteria for determining minimum instream flow requirements for the Russian River that would be based on a more accurate assessment of water supply conditions in the Russian River watershed. This would result in minimum instream flow requirements that more likely can be sustained with releases from Lake Mendocino and Lake Sonoma without severely depleting storage. It is in the public interest to manage these water supplies based on an index that is more reflective of the hydrologic conditions of the Russian River watershed.

During the period that the proposed temporary flow changes are in effect, Sonoma Water will also monitor water quality and fish, and collect and report information and data related to monitoring activities, to be in accordance with NMFS' 2008 Russian River Biological Opinion.

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.

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)

	Ministerial (Sec. 21080(b)(1); 15268)	
	Declared Emergency (Sec. 21080(b)(3); 15269(a))	
X	Emergency Project (Sec.21080 (b)(4); 15269(b)(c)):	<u>Section 21080(b)(4) and State CEQA Guidelines 15269(c): Specific actions necessary to prevent or mitigate an emergency</u>
X	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
	Statutory Exemptions. State code number:	

Reasons why project is exempt: The project is statutorily exempt under the California Environmental Quality Act (CEQA) Statute 21080(b)(4) and categorically exempt from CEQA under the State CEQA Guidelines Sections 15269(c), 15307 and 15308, and 15301(i).

A. Actions to Prevent or Mitigate an Emergency

The California Public Resources Code, Division 13, Section 21080(b)(4) provides that specific actions necessary to prevent or mitigate an emergency are exempt from CEQA. The emergency conditions are due to an urgent need to implement the proposed changes as a result of the drastic reduction of potential Eel River water imports through the PVP resulting from the inoperability of the powerhouse for the foreseeable future and PG&E's decision to keep the spillway gates open atop Scott Dam indefinitely, consequently revising the operations at Lake Pillsbury, and filing a long-term flow regime request to modify flow requirements. The volume of Eel River water that can be transferred to the Russian River is no longer correlated to cumulative inflow into Lake Pillsbury. An evaluation of the hydrologic condition in the Russian River is more appropriately established by conditions in its watershed. Without the proposed changes, the applicable minimum instream flow requirements may require releases of water from Lake Mendocino and Lake Sonoma at levels that would risk significant depletions of storage levels. Such depletions in storage could cause serious impacts to human health and welfare and reduce water supplies needed for fishery protection. The required change is urgent and cannot be accomplished within the timeframe required for completion of the Environmental Impact Report (already in process) that evaluates broader proposed changes to Decision 1610.


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. Sonoma Water is proposing temporary urgency changes to its water right Permits 12947A, 12949, 12950, and 16596 that the State Water Board, as the regulatory agency, will consider and potentially approve. Those changes are necessary to ensure an accurate evaluation of water supply conditions that would maintain viable operations to support municipal use and protect listed salmon species. Approval of the TUCPs would provide alternative storage thresholds and criteria for determining minimum instream flow requirements for the Russian River that would be based on a more accurate assessment of water supply conditions in the Russian River watershed. This would result in minimum instream flow requirements that more likely can be sustained with releases from Lake Mendocino and Lake Sonoma without the risk of severely depleting storage and potential harm to natural resources and the environment.

Additionally, 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' 2008 Russian River Biological Opinion states that these changes are necessary to avoid jeopardizing the continued existence of the listed species.³

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. Sonoma Water's petition to the SWRCB to change to the minimum instream flow requirements specified in the 2008 Russian River Biological Opinion does not request and will not expand Sonoma Water's use or increase the water supply available to Sonoma Water 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: Connie Barton Area Code/Telephone: 707-547-1905
Signature:  Date: April 10, 2025 Title: General Manager
 Lead Agency Applicant Date Received for filing at OPR: _____

³ Ibid.