

**Attachment to
TEMPORARY URGENCY PETITION FOR CHANGE
Permit 12947B**

Mendocino County Russian River Flood Control & Water Conservation Improvement District

PETITION

Mendocino County Russian River Flood Control & Water Conservation Improvement District (district or right holder) requests that the State Water Resources Control Board (State Water Board) approve a Petition for Temporary Urgency Change for Permit 12957B pursuant to Water Code section 1435. Right holder requests:

1. To rectify mapping errors associated with Drawing 50-1-26 by: (a) correcting the actual acreage of “class lands” depicted in Drawing 50-1-26 and; (b) correcting the actual amount and location of class lands within the District’s existing boundary and/or Place of Use. NOTE: This requested temporary change is actually the subject of an existing Petition for Change on file with the State Water Board.

2. Authorization to temporarily add 100 acres to the agricultural place of use under the Permit.

The changes will enable the district to deliver water to users within its boundaries that have no other source of water in this drought year. The District delivers water within its boundaries for irrigation primarily pursuant to Permit 12947B. This permit includes a restriction on irrigated acres of 4,096 acres within a gross area of 12,100. Every year the District has more customers requesting water for irrigation than allowed under its acreage restriction; however, in this drought situation there are vineyards in critical need of water to save vines. The District has identified approximately 100 acres of agricultural land planted to vineyard that has no other source of water. Without a source of supply the vines located on that acreage will die. The District has conserved 25% of its full supply under Permit 12947B in 2014 that could be used to provide an emergency supply to the acreage.

There are no new facilities or construction activities associated with the project named in this Petition. All diversions would be made via existing diversions on the Russian River, and all water would be diverted for existing uses. In this water short year many water users within the district have no water available to them. A mandatory 25% reduction has been imposed by the District on deliveries under its contracts, and all post February 19, 1954 water right holders have been curtailed by the State Water Resources Control Board.

WATER RIGHTS OF DISTRICT

District holds Permit 12947B in the Russian River watershed. Permit 12947B (Application 12920B) allows direct diversion of 53 cfs and shared storage of 122,500 acre feet annually, with combined direct diversion and rediversion of stored water limited to 8,000 acre feet annually. The season of diversion is year round, and the purposes of use are Recreation, Municipal, Industrial, Domestic and Irrigation.

District provides water for municipal, industrial and irrigation within its boundaries pursuant to Permit 12947B. In addition, water users within District boundaries also divert water pursuant to individual rights. On May 27, 2014, the State Water Board curtailed water right holders in the Russian River watershed with priority dates of February 19, 1954 or later. The District has identified

approximately 100 acres of vineyards that have no other source of water. Without a source of supply the vines located on that acreage will die. The District has conserved 25% of its full supply under Permit 12947B in 2014 that could be used to provide an emergency supply to the acreage.

CURRENT CONDITIONS

As of July 15, 2014, the volume of water stored in Lake Mendocino was approximately **42,326** acre feet, which is less than 39% of capacity. Water year 2013 was the driest year ever recorded in the district. In the face of extreme drought it is essential to preserve the existing water in Lake Mendocino. In addition, releases are being made from the reservoir pursuant to a dry, and not critical, year instream flow schedule of approximately 75 cfs. At current rates of use and releases, Lake Mendocino will have less than 20,000 acre feet of storage by November 1, 2014. The District Board of Trustees has imposed mandatory 25% conservation on its contractors.

While irrigation is an authorized purpose of use under Permit 12947B, irrigation is restricted to 4,096 acres within the authorized agricultural place of use within the District's place of use. In this emergency drought year District has reached its maximum acreage delivery under Permit 12947B and cannot provide additional water supply for irrigation even if it can be made available. The District proposes to temporarily change Permit 12947B to increase the allowable agricultural place of use by 100 acres to meet current emergency irrigation demand in the remainder of 2014.

Diversions will be made from existing points of diversion located within the District boundaries. Pursuant to Permit 12947B the District notifies the State Water Board of the points of diversion along the Russian River, and those points of diversion are posted on an online POD map.

COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

By proclamations dated January 17, 2014 and April 25, 2014, the Governor declared a state of emergency in California due to the ongoing extraordinary drought. Each proclamation included a directive that suspended the environmental review required by the CEQA to allow certain directives from the Governor to take place as quickly as possible. The proposed change is consistent with Directive 2 from the April 25, 2014 proclamation that is included in the Governor's suspension of the CEQA. The Department of Water Resources and the State Water Resources Control Board (Water Board) will immediately and expeditiously process requests to move water to areas of need, which include requests involving voluntary water transfers, forbearance agreements, water exchanges, or other means. If necessary, the Department will request that the Water Board consider changes to water right permits to enable such voluntary movements of water.

The proposed change is exempt from the CEQA because it is an emergency project that is being carried out consistent with a "state of emergency" as proclaimed by the Governor on January 17, 2014, and expanded upon in an April 25, 2014 proclamation.

CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Water Code section 1435 provides that a right holder who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the water right may file a Petition for Temporary Urgency Change with the State Water Board. The State Water Board's regulations set forth the filing and other procedural requirements applicable to a Petition for Temporary Urgency Change. (Cal. Code Regs., tit. 23, §§ 805, 806.)

Before approving a Petition for Temporary Urgency Change, the State Water Board must make the following findings (Wat. Code, § 1435, subd. (b).):

- a. The right holder has an urgent need to make the proposed change;
- b. The proposed change may be made without injury to any other lawful user of water;
- c. The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and,
- d. The proposed change is in the public interest.

A discussion of each finding and the information necessary to support each finding is provided below.

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 right holder has failed to exercise due diligence in petitioning for a change pursuant to other appropriate provisions of the Water Code.

District has identified current demand for agricultural water to provide to permanent crops. This demand has no other source of water in 2014 and would be entirely dependent upon deliveries from District pursuant to the Licenses. Deliveries cannot be made to meet this demand under the District’s existing water right due to the 4,096 acre limit placed on that water right.

Absent the change, District will be unable to provide irrigation water and permanent crops within the District boundaries will be permanently damaged and/or destroyed.

2. No Injury to Any Other Lawful User of Water.

There is no anticipated injury to any lawful user of water because no more water would be taken from the river with the change than has historically been used for irrigation under the existing permit. Water subject to the proposed change has historically been diverted and placed to use within the District boundaries for the purposes authorized in the permit.

3. No Unreasonable Effect upon Fish, Wildlife, or Other Instream Beneficial Uses

The changes requested in the Petition would not result in any change to the amount of water that can be diverted under permit, or the rate or season of diversion; as a result, fish and wildlife would not be affected by the requested change. Therefore, there should be no effect on fish, wildlife or instream uses because (1) no more water would be taken from the river with the change, and (2) the points of diversion to be used after the change are *existing* points of diversion that have been historically used for district diversions.

4. The Proposed Change is in the Public Interest

The District delivers water within its boundaries for irrigation primarily pursuant to Permit 12947-B. This permit includes a restriction on irrigated acres of 4,096 acres within a gross area of 12,100. This is sufficient in most years to provide needed irrigation water. However, in this drought situation more acreage is in critical need of water to save permanent crops.

The proposed change is in the public interest. The District has imposed 25% mandatory conservation measures on all of its customers.

California water law allows the approval of urgent changes to water rights permits and licenses in advance of public noticing. Due to the severity of the current drought situation, and the emergency need for water within the District, the District is requesting that the State Water Board staff expedite their determination on the Petition to allow irrigation to save permanent crops.

SUPPORT OF SONOMA COUNTY WATER AGENCY PETITION

As mentioned above, as of July 15, 2014, the volume of water stored in Lake Mendocino was approximately 42,326 acre feet, which is less than 39% of capacity. Water year 2013 was the driest year ever recorded in the district. In the face of extreme drought it is essential to preserve the existing water in Lake Mendocino. In addition, releases are being made from the reservoir pursuant to a dry, and not critical, year instream flow schedule of approximately 75 cfs. At current rates of use and releases, Lake Mendocino will have less than 20,000 acre feet of storage by November 1, 2014.

The District is also supporting a Petition for Temporary Urgency Change to be filed by Sonoma County Water Agency requesting that the minimum instream flows from Lake Mendocino for 2014 be amended with the goal of achieving additional real water in the reservoir through both water retention and actual demand reduction in the next 60 days. In order to assist with such water retention and demand reduction, District hereby requests that Permit 12947B be amended during the term of the temporary urgency change granted to Sonoma County Water Agency in Summer 2014 as follows:

1. Provisions for Real Time Forecast on Diversions.

District is currently implementing real time metering of customer diversions. However, there is no current ability to forecast diversions in real time.

- District will meet with its customers and use with written correspondence to provide its customers information on the emergency situation and the requested Temporary Urgency Change and to request voluntary demand reduction to achieve additional real water in Lake Mendocino.
- District will include a plan for achieving real-time forecasting in its Water Demand Reduction Plan.

2. Plan for Reduction in Diversions.

District has currently imposed a mandatory 25% reduction in contract deliveries. While the majority of the District's customers have supplemental sources of supply, in 2014 the majority of those customers have had those supplies curtailed by the State Water Resources Control Board, so the 25% mandatory conservation equals demand reduction. A chart depicting demand reduction achieved to date is attached as **Exhibit A**.

- District will undertake the requirements imposed by Term U to operate in accordance with a Water Demand Reduction Plan satisfactory to the Deputy Director for Water Rights. The Plan shall be designed to ensure that all parties that beneficially use water diverted and/or stored under this right implement actions to meet a water demand reduction of a minimum of 20% of the baseline water demand.

3. Long-Term Drought Contingency Plan.

- District agrees to develop a long-term drought contingency plan in cooperation with Sonoma County Water Agency.

4. Standard Permit Term U will be added to the District's Permit 12947B for the duration of the temporary change.