

**MEMORANDUM OF UNDERSTANDING
BETWEEN SONOMA COUNTY WATER AGENCY AND
MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL &
WATER CONSERVATION IMPROVEMENT DISTRICT CONCERNING
LAKE MENDOCINO STORAGE PLANNING
AND RUSSIAN RIVER MANAGEMENT**

This Memorandum of Understanding ("Memorandum") is effective as of 3/21/22, 2022 according to its terms between Sonoma County Water Agency ("Sonoma Water") and Mendocino County Russian River Flood Control & Water Conservation Improvement District ("Mendocino RRFC"). This Memorandum refers to either party as a "Party" and to both parties collectively as the "Parties."

Recitals

A. Lake Mendocino is the reservoir impounded by Coyote Valley Dam on the East Fork Russian River in Mendocino County. Sonoma Water and Mendocino RRFC each hold appropriative water rights to divert and use water stored in Lake Mendocino. Sonoma Water's relevant water right is reflected in Permit No. 12947A. Mendocino RRFC's relevant water right is reflected in License No. 13898.

B. Sonoma Water was the local sponsor for the U.S. Army Corps of Engineers' construction of Coyote Valley Dam. Sonoma Water therefore operates Coyote Valley Dam and Lake Mendocino. Permit No. 12947A's terms require that Sonoma Water maintain certain minimum streamflows below the dam in the East Fork Russian River (the "East Fork") and downstream on the mainstem of the Russian River. Seasonally over the summer and longer during dry years, Sonoma Water maintains those streamflows by releasing stored water from Lake Mendocino. Permit No. 12947A's priority date is January 28, 1949.

C. Mendocino RRFC's License No. 13898 authorizes Mendocino RRFC to appropriate up to 7,940 acre-feet annually from the East Fork, including from Lake Mendocino storage. License No. 13898 does not contain minimum streamflow requirements, but Sonoma Water's need to release stored water to meet such requirements under Permit No. 12947A physically affects the volume of water available to Mendocino RRFC under License No. 13898. License No. 13898's priority date also is January 28, 1949.

D. There are thousands of diversions from the Russian River system downstream of Coyote Valley Dam. Some of these diversions occur under claimed riparian rights. Some occur under claimed appropriative water rights. Some of those claimed appropriative water rights are associated with claims that have priorities older than Permit No. 12947A and License No. 13898. In addition, groundwater pumping occurs along the Russian River at wells whose operations may affect the river's streamflows.

E. Some of the appropriative permits and licenses under which diversions from the Russian River occur do so under the "10,000 acre-foot reservation" established originally by the State Water Rights Board in Decision 1030 with the approval of Application A012920A and referenced in Permit No. 12947A's Term 23. Under that term, Sonoma Water's right to appropriate water into storage at Lake Mendocino is subject to up to 10,000 acre-feet of depletion by permits and licenses within the Russian River Valley in Sonoma County with

priority dates that are later than January 28, 1949. Those post-1949 permits and licenses, however, do not authorize diversions that would threaten Sonoma Water's ability to comply with Permit No. 12947A's minimum instream flow requirements. That permit's Term 23 states, in relevant part, that these junior rights are subject to the "retention of stored water [that] is necessary to insure satisfaction of the minimum streamflows required by permit."

F. Hydrologic conditions in 2021 demonstrated a need for Sonoma Water, Mendocino RRF and the State Water Resources Control Board (the "State Board") to cooperate in planning and managing the operation of Lake Mendocino's storage. Those conditions were sufficiently dry that, in Resolution No. 2021-0023, the State Board adopted emergency water-right curtailment regulations. Those regulations applied to the whole Russian River in an effort to preserve sufficient Lake Mendocino storage to support minimum streamflows and some reserve to meet essential uses into the following year in the event that 2022 would be another severely dry year.

G. The State Board's 2021 emergency regulations indicated that Sonoma Water and Mendocino RRF should develop an agreement to describe how they will allocate, plan and manage water in light of varying hydrologic conditions and the terms of Permit No. 12947A and License No. 13898, respectively.

H. Sonoma Water and Mendocino RRF desire to document how they intend to collaborate and cooperate among themselves, and with the State Board, in planning Lake Mendocino operations, as well as use and management of the lake's stored water, in 2022 and potentially future dry years.

Planning and Management Terms

1. Annual Documentation of Methods of Analysis. Beginning in 2022 and continuing each calendar year unless terminated by either Party under Section 4 below, the Parties will work together to prepare a technical memorandum to document the approach and assumptions to assess and project reservoir storage and other related water-supply conditions at Lake Mendocino and in the Russian River mainstem downstream of its confluence with the East Fork Russian River (the "Tech Memo"). The Parties' preparation of the Tech Memo in 2022 will be a means of implementing continued emergency curtailment regulations that the Parties anticipate that the State Board will adopt. The Tech Memo, however, is independent of those regulations because the Parties will prepare the Tech Memo annually in future years as needed, notwithstanding any State Board action.

1.1. Schedule. The Parties will use their best efforts to complete the Tech Memo by July 1 of each year and may update that Tech Memo as necessary during the relevant year.

1.2. Contents. The Tech Memo will establish the Parties' baseline assumptions, methodology and operational goals for managing Lake Mendocino storage and conditions in the Russian River for the current year, based on, among other factors, the terms of Permit No. 12947A and License No. 13898. In the Tech Memo, the Parties will, among other things:

- (A) Analyze conditions in the Russian River's watershed, including any projected imports from the Eel River watershed through the Potter Valley Project;
- (B) Assess the adequacy of existing and projected Lake Mendocino storage to meet projected consumptive and other demands and applicable minimum streamflow requirements;
- (C) Establish the frequency and level of analysis necessary to reliably conduct their assessment based on a given year's particular hydrology; and
- (D) Project diversions by post-1949 water-right permittees and licensees within Sonoma County under the 10,000 acre-foot reservation consistent with Term 23 of Permit No. 12947A and available information concerning usage under that reservation from the State Board.

1.3. Operational Goals. In the Tech Memo, Sonoma Water will describe its approach of using its reservoir and river operations model to estimate the availability of stored water for authorized users. The Parties agree that a key objective will be to ensure that, to the maximum extent possible, water stored in Lake Mendocino will be used for the following purposes:

- (A) Complying with applicable minimum instream flow requirements;
- (B) Rediversion by Mendocino RRFCC pursuant to License No. 13898;
- (C) Rediversion by Sonoma Water pursuant to its Permit No. 12947A; and
- (D) Diversion by post-1949 water-right permittees and licensees within Sonoma County under the 10,000 acre-foot reservation.

1.4. Sonoma Water's Projections. Before April 1, 2022, and then before March 1 of each succeeding year, Sonoma Water will develop a projection of Lake Mendocino storage. Sonoma Water will develop updated projections by the 1st of each succeeding month during the remainder of the applicable calendar year. Beginning on June 1 of each calendar year, Sonoma Water's projections will run until December 31 of the current calendar year. Sonoma Water's projections will consider the most up-to-date information available to Sonoma Water concerning at least the following factors:

- (A) Russian River watershed demand projections that include diversions for consumptive use, demands of riparian vegetation, evaporation and seepage;
- (B) Observed hydrologic conditions that include streamflows, Lake Mendocino's reservoir level and soil moisture;
- (C) Hydrologic forecasts that include near-term weather forecasts combined with historical hydrological records that support statistical projections of water-supply conditions; and

- (D) Observed and projected Potter Valley Project imports to the East Fork Russian River, based on Lake Pillsbury's storage condition and Potter Valley Project operations.
- (E) Russian River operations based on, among other things, reservoir rule curves, forecast-informed reservoir operations (FIRO) decision support tools, current and anticipated minimum streamflow requirements and related operational buffers.

1.5. Communication of Projections. Sonoma Water will post each of its projections under this Memorandum to its website promptly after completing that projection. If a projection by Sonoma Water shows that projected October 1 Lake Mendocino storage will fall below a level identified as important by the Parties in that year's Tech Memo, then Sonoma Water will promptly transmit that projection to Mendocino RRFCC and the State Board's Deputy Director for Water Rights (the "Deputy Director") by e-mail.

1.6. Determination of Necessity. Beginning as promptly as possible after January 1 of each year, and then at least monthly thereafter, the Parties will consult to determine whether Lake Mendocino storage planning efforts as described in this Memorandum are necessary. Notwithstanding the preceding sections, the Parties may determine that these efforts are not necessary based on hydrologic conditions. For example, storage levels in Lake Mendocino may be sufficient that there is little risk of storage declining to problematic levels during the remainder of the calendar year. If the Parties mutually determine that these efforts are not necessary for a given year, they will document that determination promptly in a written communication exchanged between them, with a copy being transmitted to the Deputy Director.

2. Mendocino RRFCC Reports.

2.1. Reports on Customers' Demands. On or before April 15 of each year beginning in 2022, Mendocino RRFCC will prepare a provisional accounting report that summarizes the amount of water that its customers diverted under License No. 13898, either directly from Upper Russian River streamflows or from redirection of releases from Lake Mendocino storage, during the January 1-March 31 period of that year. Mendocino RRFCC will update that report on a monthly basis through September 30 of the relevant year.

2.2. Projections of Customers' Demands. On May 15 of each year, beginning in 2022, Mendocino RRFCC will prepare a projection of total monthly water demands by its customers through the end of that year. Mendocino RRFCC will update those projections by the 15th of the months of April through September of that year.

2.3. Transmittal to Sonoma Water and the State Board. Mendocino RRFCC will transmit its reports and projections under Sections 2.1 and 2.2 above to Sonoma Water and the Deputy Director by e-mail promptly upon Mendocino RRFCC's completion of them.

3. The Parties' Interaction with the State Board. The Parties believe that the State Board's participation in each year's implementation of the Tech Memo will be crucial to its success. The Parties therefore intend to coordinate with the State Board as follows:

3.1. Accounting Report to the State Board. Unless determined to be unnecessary pursuant to Section 1.6, on June 15 of each year, the Parties will provide the Deputy Director with an accounting report related to Lake Mendocino conditions and operations. The Parties will provide the Deputy Director with updates to that report by the 15th of each month until September 15 of the relevant year. Each report, and update, under this Section 3.1 will contain the following information:

- (A) The volume of Lake Mendocino storage that is projected to be necessary to meet minimum Russian River streamflow requirements, including an operational buffer, until September 30 of the relevant year;
- (B) The volume of Lake Mendocino storage that is projected to be available for redirection by Mendocino RRFCC's customers through September 30 of the relevant year;
- (C) The volume of water that is projected to be available under the 10,000 acre-foot reservation for post-1949 permittees and licensees in Sonoma County through September 30 of the relevant year; and
- (D) The projected volume of Lake Mendocino storage on October 1 of the relevant year.

3.2. Information from the State Board. Notwithstanding the Parties' potential decision under Section 1.6 above that Lake Mendocino storage planning efforts are not necessary for a given year, the Parties will request that the Deputy Director provide to the Parties each year the following information concerning the demands of other permittees and licensees whose diversions may be authorized to divert under the 10,000 acre-foot reservation:

- (A) By May 15th of each year, a projection of those permittees' and licensees' demands for the remainder of that calendar year; and
- (B) By the 15th of each month between June and September of the relevant year, an updated projection of those other permittees' and licensees' demands for the remainder of that calendar year.

3.3. The Parties' Potential Reconsideration of this Memorandum. To the extent that the Deputy Director, or others at the State Board, are not able to produce to the Parties the information described in Section 3.2 above, the Parties will confer in good faith about their ability to develop storage plans for Lake Mendocino and otherwise implement this Memorandum. The Parties' resulting actions may include termination or amendment of this Memorandum under Section 4 below.

4. Amendment and Termination. This Memorandum may be amended only by a writing signed by an authorized representative of each Party. Either Party may terminate this Memorandum on 30 days' written notice to the other Party, transmitted by e-mail with an original of the termination notice promptly being sent to the receiving Party by U.S. mail under Section 5 below.

5. Notices. A Party will provide the other Party notice by directing a written communication to that receiving Party's designated representative. A Party may change its designated representative by providing the other Party with notice of the change pursuant to this Section 5. A Party may provide written notice to the other Party's designated representative by one or more of the following methods: (A) an e-mail, with delivery receipt requested, in which case the notice will be effective on the business day following the day on which the transmitting Party receives the delivery receipt; (B) by a nationally recognized overnight service, delivery fees prepaid, in which case the notice will be effective on the business day after that representative's confirmed receipt; or (C) by first-class mail, postage prepaid, in which case notice will be effective on the fifth business day after the notice's deposit with the U.S. Postal Service. The Parties' representatives are as follows:

Sonoma County Water Agency

Mendocino County Russian River Flood Control
& Water Conservation Improvement District

**REPRESENTATIVE'S NAME
AND CONTACT INFORMATION**

Elizabeth Salomone
General Manager
151 Laws Avenue, Suite D
Ukiah, California 95482
districtmanager@rrfc.net
(707) 462-5278

6. Truth of Recitals. The Parties agree that this Memorandum's recitals are true to the best of their knowledge and base their execution of this Memorandum on that agreement.

7. No Commitment of Resources and Environmental Review. This Memorandum does not commit either Party to any course of action, including any change in Lake Mendocino operations, diversions from the Russian River or any tributary or the construction of any physical facility or other project, that would foreseeably result in any impact on the environment in the absence of compliance, if necessary, with the California Environmental Quality Act (CEQA).

8. Effect of Memorandum. This Memorandum documents the Parties' mutual understanding about how they will seek to coordinate their respective interests in Lake Mendocino storage and Coyote Valley Dam operations. It does not contain legally binding commitments about how the Parties will exercise their respective authorities, rights and obligations, including their respective rights and obligations under Permit No. 12947A and License No. 13898. To the extent that this Memorandum conflicts with either Party's legal obligations, those obligations shall control.

9. Cooperation and Execution of Further Documents. The Parties will use their reasonable best efforts in taking cooperative actions that further the achievement of this Memorandum's objectives. This cooperation will include one Party executing, at the other Party's reasonable request, further documents that address the subjects covered by this Memorandum.

10. Interpretation. Each Party has had an opportunity to participate in the drafting of this Memorandum, including by having its counsel review this Memorandum. No

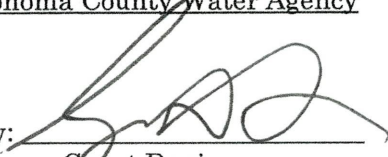
principle of interpretation disfavoring a party that drafted a contract will apply to this Memorandum. This Memorandum's section headings are for informational purposes only and are not to be used to interpret this Memorandum's effective terms.

11. Authorized Representative. Each person who executes this Memorandum represents that he or she is authorized to do so by the Party for whom he or she signs.

Based on the above, the Parties execute this Memorandum as of the date first written above.

Sonoma County Water Agency

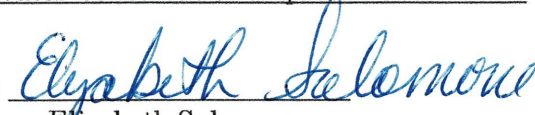
By:



Grant Davis
General Manager

Mendocino County Russian River Flood Control
& Water Conservation Improvement District

By:



Elizabeth Salomone
General Manager

3/21/22