

September 30, 2021

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State Water Resources Control Board
Division of Water Rights, Attn: Erik Ekdahl, Deputy Director
P.O. Box 2000, Sacramento, CA 95812-2000
Via electronic mail: Erik.Ekdahl@waterboards.ca.gov

Re: EAC Comments on Temporary Urgency Change Petition
for Permits 5633, 9390, and 18546 (Applications 9892, 14278,
and 26242) of Marin Municipal Water District

Dear Mr. Ekdahl,

The Environmental Action Committee of West Marin (EAC)'s mission is to protect and sustain the unique lands, waters, and biodiversity of West Marin through advocacy, education, and engagement. We are based in Point Reyes Station, California, and many of our members and staff are Marin Municipal Water District (Marin Water) customers.

We submit the below comments on Marin Water's Temporary Urgency Change Petition (TUCP). For background, EAC is a member of the Lagunitas Technical Advisory Committee. We submitted prior comments to Marin Water along with six other local non-governmental organizations on August 27, 2021 in advance of their August 30, 2021 meeting on this issue. EAC also spoke at the Marin Water meeting, voicing our concerns about the TUCP and the potential impacts to the endangered Coho salmon.

We continue to voice concerns around the significant potential impacts to this southernmost remaining population of wild Coho salmon in California. Our letter to Marin Water highlighted concerns regarding the impacts of the reduced and later flows, as well as Marin Water's failure to adequately conserve water based on its conservation goal target of 40 to 50 percent. While Marin Water is conserving a considerable amount of water¹, other districts in the region such as Healdsburg and some districts in West Marin, such as Inverness Public Utility District, are achieving more significant conservation goals. We also note that Marin Water failed to meet their deadline to submit monitoring reports to the state recently.²

¹ Marin Water's website lists 27% weekly conservation for the week of September 17-23. Marin Water, accessed September 30, 2021, *available at*: <https://www.marinwater.org/>.

² Paul Rogers, The Mercury News, "California cities were told to cut their water use 15%. See what happened in your city," September 23, 2021, *available at*: <https://www.mercurynews.com/2021/09/21/drought-which-cities-in-california-are-saving-the-most-and-least-water/>

We understand that the public interest requires balancing the various beneficial uses of inland surface waters including municipal and domestic supply (MUN), freshwater replenishment (FRESH), groundwater recharge (GWR), preservation of rare and endangered species (RARE), water contact recreation (REC1), noncontact water recreation (REC2), wildlife habitat (WILD), cold freshwater habitat (COLD), warm freshwater habitat (WARM), fish migration (MIGR), and fish spawning (SPWN).³ Robust conservation efforts are part of the balancing, and this petition is necessitated in large part by Marin Water's failure to meet its own conservation targets.

We question whether the proposed monitoring plan (Exhibit G) is feasible as a practical matter, but we support the conditions recommended by both the National Marine Fisheries Service and the California Department of Fish and Wildlife. It is critical that if the TUCP is approved via order, all of the conditions for the proposed monitoring and adaptive management plan are included as conditions of the Order. The adaptive management plan, with well-defined thresholds for identifying adverse effects resulting from the TUCP flow changes, is essential for ensuring that there is no unreasonable effect on Coho salmon and other species. As the TUCP and agency comment letters note, the drought does not relieve Marin Water of its obligation under the Endangered Species Act to ensure that no take of a federally listed species occurs as a result of its operations. As the state agency charged with regulating water policy, we understand the State Water Resources Control Board has its own independent obligation to protect public trust resources where feasible, and not to approve projects that jeopardize the continued existence of threatened or endangered species if there are reasonable and prudent alternatives available.

If an order is approved, we fully intend to participate in monitoring the results of the TUCP flow release changes through our continued participation in the Lagunitas Technical Advisory Committee. Thank you for your careful review of Marin Water's proposal, your dedication to conservation and protecting public trust resources, and your review of our comments.

Sincerely,



Morgan Patton, Executive Director

cc: Kate Gaffney, Water Resource Control Engineer, State Water Resources Control Board
Molly MacLean, General Counsel, Marin Water
Bennett Horenstein, General Manager, Marin Water

³ California Water Boards, San Francisco R2, Beneficial Uses, accessed September 29, 2021, *available at*: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/bp_ch2.html.