

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**In the Matter of Permit 15026
(Application 5632)**

Yuba County Water Agency

**ORDER APPROVING PETITION FOR CHANGE ON LONG-TERM
TRANSFER**

SOURCE: North Yuba River and Yuba River

COUNTY: Yuba

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION FOR CHANGE

On October 16, 2014, Yuba County Water Agency (YCWA) filed a Petition for Change with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) requesting approval of a change pursuant to California Code of Regulations section 791, et seq. of a long-term transfer authorized under Water Code section 1735, et seq. The requested change is to add a point of rediversion (PORD) at San Luis Reservoir's (SLR) dam under YCWA's Permit 15026 (Application 5632) until December 31, 2025. Addition of the PORD would enable the United States Bureau of Reclamation (Reclamation) to enter into Warren Act contracts for the San Luis Delta-Mendota Water Authority (SLDMWA) to store up to 70,000 acre-feet per year (afa) of Yuba Accord transfer water to SLDMWA for consecutive contract years through December 31, 2025. Storage of transfer water in SLR would involve only water that is currently being transferred under the Yuba Accord.

1.1 Background

YCWA is currently authorized under Corrected Order WR 2008-0014 (Corrected Order) for Long-Term Transfer to transfer up to 200,000 afa of water under Permit 15026 until December 31, 2025, subject to the terms and conditions established in the order. The Corrected Order: (a) approved the inclusion of Yuba Accord streamflow requirements in the permit; (b) added the service areas of the State Water Project (as shown on maps 1878-1, 2, 3, and 4 on file with Application 5629) and the Central Valley Project (as shown on map 214-208-12581 on file with Application 5626) to the place of use in Permit 15026 for the duration of the long-term transfer; and (c) approved the addition of the Central Valley Project's (CVP) and the State Water Project's (SWP) (collectively, Projects) south Delta export diversion facilities as PORDs in Permit 15026 for the term of the Water Purchase Agreement (WPA), which ends on December 31, 2025.

YCWA previously petitioned to add the point of diversion for the Freeport Regional Water Project as a PORD for its long-term transfer under the Yuba Accord. Addition of the Freeport PORD was approved by the Division on March 18, 2014. On January 23, 2014, YCWA petitioned for a Temporary Urgency Change (TUCP) to add SLR Dam as a PORD in order to enable Yuba Accord transfer water to be stored in SLR for diversion by members of the SLDMWA. The Division approved the TUCP on February 14, 2014. Approval of the subject Petition for Change would add SLR Dam as a PORD until the end of the WPA.

1.2 Project Description

The project associated with YCWA's Petition for Change on the long-term transfer would include the addition of SLR dam in Merced County as an authorized PORD for Permit 15026 for the purpose of allowing carryover storage of up to 70,000 afa in SLR for CVP contractors until December 31, 2025. No facilities would be constructed, and no diversions from natural watercourses would occur in conjunction with the change. A portion of the water stored in SLR is YCWA transfer water authorized by the Corrected Order for use within the Projects' service areas until December 31, 2025.

The Petition for Change states that Reclamation and the SLDMWA have requested the change in order for Reclamation to enter into Warren Act contracts to enable members of SLDMWA to store approximately 70,000 afa of YCWA transfer water in SLR for subsequent CVP contract years for the duration of the long-term transfer.

1.3 Public Notice

On December 5, 2014, the State Water Board issued a notice and LYRIS notification of the Petition for Change. Any protests were required to be submitted by January 5, 2015. No protests were received within the protest period.

2.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On October 28, 2014, YCWA adopted Addendum No. 3 (SCH #200506211) to the Yuba Accord Environmental Impact Report (EIR), which evaluated the project associated with addition of the PORD at SLR Dam for Permit 15026. The addendum evaluated the proposed project and documented that addition of the PORD for Yuba Accord transfer water will not result in: (a) new significant environmental impacts not analyzed in the Yuba Accord EIR, (b) substantial increases in the severity of significant impacts analyzed in the Yuba Accord EIR, or (c) any other conditions or circumstances that would require preparation of a subsequent or supplemental EIR under Public Resources Code section 21166 and CEQA Guidelines section 15162.

The proposed change to the Yuba Accord Project would not involve any changes to: (1) YCWA's operations in the Yuba River Basin; or (2) flow and water temperatures in the Feather and Sacramento rivers and the Delta, as previously evaluated under YCWA's Yuba Accord EIR and prior addenda. Therefore the analytical approach taken in Addendum No. 3 was to evaluate fisheries and aquatic resources in SLR.

The addendum evaluated the potential for warmwater and coldwater fish populations in SLR to be exposed to reduced levels of dissolved oxygen as algal blooms become more concentrated and reservoir storage approaches the "low point" of 300,000 acre-feet (af) during August and September. The addendum found that the proposed project would not be expected to reduce habitat suitability for warmwater and coldwater fish species in SLR as a result of reduced dissolved oxygen concentrations related to the low point storage in comparison to a "no project" alternative. Simulations of potential scenarios of low point storage frequency indicated that with the project, there are slightly fewer occurrences of reducing SLR storage below the 300,000 af benchmark during August and September, which are months susceptible to reduced levels of dissolved oxygen and potential algal blooms.

The addendum also evaluated the potential for changes to the habitat availability of warmwater fishes during spawning/nesting and rearing seasons and found that the proposed project would not result in new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts to warmwater fishes in SLR. Potential effects to warmwater fisheries were evaluated based on the occurrence of monthly reductions in water surface elevation of six feet or more during March through June (spawning/nesting season) and from April through November (rearing). Modeled scenarios for the spawning/nesting season indicated that the frequency of six foot or greater monthly reductions in water surface elevation under the proposed project would be essentially equivalent during March, May, and June,

but occur slightly higher (3.2%) in the month of April under the proposed project scenario. Modeling scenarios for the rearing season indicated that elevations are generally similar or slightly higher during all months evaluated during all water year types under the proposed project scenario. Water surface elevation probability of exceedance distributions also indicated that water surface elevations are generally similar or slightly higher under the proposed project compared to a "no project" alternative.

In respect to coldwater fishes, it was concluded that the proposed project may slightly improve habitat conditions for coldwater fisheries, particularly during September of dry and critical water years since storage levels would be somewhat higher (6.6 and 8.5% higher) as indicated by simulated scenarios. In addition, probability of exceedance distributions indicate that storage estimates (with the project) are generally similar or slightly higher during the period from April through November.

The addendum did not identify any additional mitigation measures for inclusion in the permit; however, the Division has considered permit conditions proposed by YCWA for inclusion in any order approving the change petition. The State Water Board has considered the environmental documentation and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The State Water Board will file a Notice of Determination within five days from the issuance of this Order.

In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The State Water Board has considered the information in the Yuba Accord EIR, EIR addenda, and the ordering conditions below and determined that these items satisfy the State Water Board's public trust responsibility.

3.0 CRITERIA FOR APPROVING THE PROPOSED CHANGE

Water Code sections 1735 through 1737 govern the State Water Board's review of changes in permitted points of diversion, place of use or purpose of use for water transfers for periods in excess of one year. Under Water Code section 1736, the State Water Board may approve a long-term transfer petition if the State Water Board finds that the transfer will not result in substantial injury to any legal user of water and would not unreasonably affect fish, wildlife, or other instream beneficial uses. YCWA is currently authorized under Corrected Order WR 2008-0014 for Long-Term Transfer to transfer up to 200,000 afa of water under Permit 15026 until December 31, 2025, subject to the terms and conditions established in the order. On October 16, 2014, Yuba County Water Agency filed a Petition for Change with the State Water Resources Control Board, Division of Water Rights requesting approval of a change pursuant to California Code of Regulations section 791, et seq.

Pursuant to California Code of Regulations section 791, (a) and (e), changes in permits or licenses other than changes in point of diversion, place of use, and purpose of use may be allowed only upon petition and provided that the Petitioner establishes that the proposed change(s) will neither in effect initiate a new right nor injure any other legal user of water.

3.1 No injury to Other Legal Users of the Water

YCWA has provided information in its Petition for Change and EIR Addendum, which shows that addition of the PORD at SLR Dam, under the conditions noted in the order below, will not operate to the injury of any lawful user of water. The Petition for Change states that addition of the proposed PORD will not injure any legal users of water because the water that may be carried over in SLR storage would be water already approved for transfer. In addition, the petition states that there are no water right holders in SLR other than the CVP and the SWP approved transfers of YCWA water within the places of use approved in the Corrected Order. The petition information also indicates that good cause has been shown for the change and, based on the existing facilities, that the project does not constitute the initiation of a new right.

3.2 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses

Before approving a change in order to facilitate a transfer of water, the State Water Board must find that the proposed change to Corrected Order WR 2008-0014 would not unreasonably affect fish, wildlife, or other instream beneficial uses. Refer to Section 2.0 regarding discussion and conclusions that this change has no unreasonable effect on fish, wildlife, or other instream beneficial uses. The petitioner notified CDFW on October 16, 2014 regarding the proposed change. CDFW subsequently contacted the Division on January 13, 2015, to state that they had no concerns with the change.

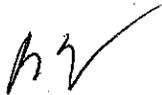
NOW, THEREFORE, IT IS ORDERED THAT: YCWA's Petition for Change on the Long-Term Transfer for Permit 15026 is approved.

All existing terms and conditions of the subject permit remain in effect, as modified by the State Water Board's Revised Decision 1644 (RD-1644) and the Corrected Order, except as amended by the following provisions:

1. The PORD at San Luis Dam is authorized until December 31, 2025. The location of the PORD is on San Luis Creek at NAD 83, Zone 3, North 1,848,478 feet and East 6,393,579 feet, being within the SW¼ of the SE¼ of projected Section 15, T10S, R8E, MDB&M, as shown on map on file in Application 5632.
2. The maximum quantity of water that may be stored in SLR by virtue of one or more Warren Act contracts between CVP contractors and Reclamation under this Order is 70,000 afa.
3. Diversions at the PORD at SLR Dam are subject to all terms of any biological opinions and incidental take permits that apply to the operation of SLR by Reclamation and DWR.
4. The PORD at SLR Dam is authorized to enable carryover storage of YCWA water transferred pursuant to the Corrected Order under one or more Warren Act contracts between CVP contractors and Reclamation.
5. The addition of SLR Dam as an authorized PORD shall not authorize any diversions of water under Permit 15026 at Clifton Court Forebay and Jones Pumping Plant other than those authorized by the Corrected Order.
6. YCWA shall provide a report describing the storage of YCWA water in SLR authorized under this Order to the Deputy Director for Water Rights with the annual electronic report(s) of water diversion and use for Permit 15026 covering the period of this Order. The report shall include average monthly rates and volumes of water rediverted at the SLR Dam PORD and shall include the annual total of water placed in storage in SLR.
7. This Order does not authorize any physical use of the CVP or SWP facilities absent independent agreements with DWR or Reclamation for the use of those facilities.
8. This Order does not authorize any act that results in the taking of a candidate, threatened or endangered species, or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this Order, the Right Holder shall ensure authorization for an incidental take permit is obtained prior to operation of the project.
9. YCWA shall comply with all applicable requirements of the State Water Board's Revised Decision 1644, as amended by the Corrected Order. All of the instantaneous and annual limits on pages 59-60 of the Corrected Order shall apply to the total of all rediversion under Permit 15026 at the Freeport Regional Water Authority PORD, Clifton Court Forebay, and Jones Pumping Plant.

10. Only Released Transfer Water, as defined in Exhibit 1 (Scheduling and Accounting Principles) to Exhibit YCWA-11a, as submitted during the State Water Board's 2007 hearing that led to the Corrected Order, may be transferred through the SLR Dam PORD under this permit.

STATE WATER RESOURCES CONTROL BOARD



*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **FEB 25 2015**

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

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COUNTY: Yuba

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION FOR CHANGE

On August 28, 2013, Yuba County Water Agency (YCWA) filed a Petition for Change with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) requesting approval of a change pursuant to California Code of Regulations section 791, et seq. The requested change is to add a point of redirection (PORD) for YCWA's Permit 15026 (Application 5632) at the point of diversion (POD) for the Freeport Regional Water Project (FRWP). Addition of the PORD would enable delivery of up to 34,000 acre-feet per year of Yuba Accord transfer water to East Bay Municipal Utilities District (EBMUD) through December 31, 2025.

1.1 BACKGROUND AND DESCRIPTION OF THE PETITION FOR CHANGE

YCWA is currently authorized under Corrected Order WR 2008-0014 (Corrected Order) for Long-Term Transfer to transfer up to 200,000 acre-feet (af) per calendar year of water under Permit 15026 until December 31, 2025, subject to the terms and conditions established in the Order. The Corrected Order: (a) approved the inclusion of Yuba Accord streamflow requirements in the permit; (b) added the service areas of the State Water Project (as shown on maps 1878-1, 2, 3, and 4 on file with Application 5629) and the Central Valley Project (as shown on map 214-208-12581 on file with Application 5626) to the place of use in Permit 15026 for the duration of the long-term transfer; and (c) approved the addition of the Central Valley Project's (CVP) and the State Water Project's (SWP) (collectively, Projects) south Delta export diversion facilities as PORDs in Permit 15026 for the term of the Water Purchase Agreement, which ends on December 31, 2025.

YCWA has indicated that since the Yuba Accord Project was approved and the Corrected Order was issued by the State Water Board, requirements by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) that were based on biological opinions issued for coordinated SWP/CVP operations in 2008 and 2009 have constrained the Projects capacity to take delivery of Yuba Accord transfer water. As a result, the Projects are unable to take delivery of as much Yuba Accord transfer water as was projected in the YCWA's Final EIR for the Yuba Accord Project. YCWA has indicated that the Department of Water Resources (DWR) has attempted to "back up" Yuba Accord transfer water for storage in Oroville Reservoir to

the extent possible; however the Projects remain unable to take delivery of the transfer water for the following two reasons: (1) it is not always possible for DWR to modify Oroville Reservoir operations to "back up" the transfer water into storage; and (2) at times, DWR flood control releases are more difficult to manage with the "backed-up" transfer water in Oroville Reservoir.

Approval of YCWA's change petition to add a PORD at Freeport would enable EBMUD to receive Yuba Accord transfer water. EBMUD is a member of FRWP and has a diversion intake on the Sacramento River at Freeport. EBMUD's service area is already included in the place of use for YCWA's long-term transfer under Permit 15026.

1.2 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On January 28, 2014, YCWA adopted an addendum to the Yuba Accord Environmental Impact Report (EIR or EIR Addendum) (SCH #2002032132, certified April 15, 2004) that evaluated the project associated with addition of the PORD at Freeport for Permit 15026. YCWA's addendum evaluated the proposed project and documented that the proposed addition of the FRWP intake as a PORD for Yuba Accord transfer water will not result in: (a) new significant environmental impacts not analyzed in the Final EIR, (b) substantial increases in the severity of significant impacts analyzed in the Final EIR, or (c) in any other conditions or circumstances that would require preparation of a subsequent or supplemental EIR under Public Resources Code section 21166 and CEQA Guideline section 15162. The addendum did not identify any additional mitigation measures for inclusion in the permit; however, YCWA proposed permit conditions for inclusion in any order approving the change petition. The State Water Board has considered the environmental documentation and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The State Water Board will file a Notice of Determination within five days from the issuance of this Order.

In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The State Water Board has considered the information in the Final EIR, the Addendum, and the ordering conditions below and determined that these items satisfy the State Water Board's public trust responsibility.

2.0 CRITERIA FOR APPROVING THE PETITION FOR CHANGE

Pursuant to California Code of Regulations section 795, the State Water Board will not ordinarily require that notice be given or published in cases where the proposed change does not have the potential to impair the water supply of other legal users of water or instream beneficial uses. In this case, the petition to add a new PORD will not have the potential to affect other legal users of water or instream beneficial uses. The proposed project change would not alter any of YCWA's releases of water from its facilities, YCWA's compliance with Corrected Order WR 2008-0014, or YCWA's implementation of the Yuba Accord conjunctive use program under its Lower Yuba River Accord Agreements for the Conjunctive Use of Surface and Groundwater Supplies with its member units. The EIR Addendum analyzed the potential for the proposed change to have surface water supply and management impacts, impacts to fisheries and aquatic resources (including impacts at and downstream of the FRWP intake as well as in the Mokelumne River watershed due to revisions to EBMUD's operations), and impacts to surface water quality. No significant impacts were identified.

In the petition and the EIR Addendum, YCWA has shown that addition of the PORD with the conditions noted in the order below: (a) will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; and (c) the change petition does not constitute the initiation of new rights.

3.0 GOVERNOR'S 2014 DROUGHT STATE OF EMERGENCY PROCLAMATION

On January 17, 2014, Governor Edmund G. Brown Jr. issued a Proclamation of a Drought State of Emergency (Proclamation). The Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmer's long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction.

The Proclamation refers to the Governor's Executive Order B-21-13 (Executive Order), issued on May 20, 2013 for the purpose of streamlining approval for water transfers to address the dry conditions and water delivery limitations to protect California's agriculture. The Executive Order directs the State Water Board and DWR to expedite processing of water transfers (in accordance with the Water Code) and to assist water transfer proponents and suppliers, as necessary, provided that the transfers will not harm other legal users of water and will not unreasonably affect fish, wildlife, or other instream beneficial uses. The State Water Board and DWR were also directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT: YCWA's Petition for Change on the Long-Term Transfer for Permit 15026 is approved.

All existing terms and conditions of the subject permit remain in effect, as modified by the State Water Board's Revised Decision 1644 (RD-1644) and Corrected Order WR 2008-0014, except as temporarily amended by the following provisions:

1. A PORD is added at FRWP on the Sacramento River. The location of the PORD is: NAD 83, Zone 2, North 1,934,251 feet and East 6,702,930 feet, being within the NE¼ of SE¼ of Section 11, T7N, R 4E, MDB&M.
2. The total quantity of water to be rediverted at the PORD shall not exceed 34,000 af per year and is also limited to 9,600 af per month.
3. Diversion of Yuba River Accord transfer water at the FRWP PORD is subject to compliance with the conditions for FRWP diversions that are established in the following documents:
 - a. California Endangered Species Act Incidental Take Permit No. 2081-2010-031-03, including Term 9.1 of the permit, which limits total FRWP diversions to 185 million gallons per day or 286 cubic feet per second with an annual volume of 147,000 af.
 - b. Department of Fish and Wildlife Lake and Streambed Alteration Agreement No. 1600-2006-0321-R2.
 - c. All biological opinions issued by the USFW or NMFS that apply to the FRWP diversion.
4. YCWA shall comply with all applicable requirements of the State Water Board's Revised Decision 1644, as amended by the Corrected Order. All of the instantaneous and annual limits on pages 59-60 of the Corrected Order shall apply to the total of all rediversion under Permit 15026 at the FRWP PORD, Clifton Court Forebay, and Jones Pumping Plant.

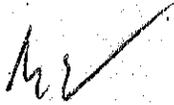
5. YCWA shall provide, with the annual electronic report of water diversion and use, a report describing rediversion of water at the FRWP PORD. This report shall be submitted in addition to the report required by Term 6 on page 61 of the Corrected Order and shall include the following information:
 - a. The average and daily rates of rediversion of water at the FRWP PORD under Permit 15026; and
 - b. The daily and monthly volumes of water rediverted at the FRWP PORD under Permit 15026.

In addition, YCWA shall document that water made available at the FRWP PORD under Permit 15026 was water made available by New Bullards Bar Reservoir releases for transfer under Corrected Order WR 2008-0014 and this Order (Orders) minus any diversion limitations based on Item 3 above and any other limitations from the Orders. Transfer water does not include water delivered to YCWA member units.

6. This Order does not authorize any act that results in the taking of a candidate, threatened or endangered species, or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this Order, the permittee shall ensure authorization for an incidental take permit is obtained prior to operation of the project.
7. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

STATE WATER RESOURCES CONTROL BOARD



*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **MAR 18 2014**

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ROOM 1015, RESOURCES BUILDING
1416 NINTH STREET • SACRAMENTO 95814



**ORDER ALLOWING CHANGES IN POINTS OF DIVERSION,
CHARACTER OF USE AND TOTAL QUANTITY LIMIT;
AMENDING PERMIT TERMS 5 AND 13 AND ADDING
PERMIT TERM 21**

Permit 15026

Application 5632

WHEREAS the State Water Resources Control Board has found that the requested changes under Permit 15026 for which petitions were submitted on September 30, 1971 will not operate to the injury of any other legal user of water, and

WHEREAS the Board has approved and allowed said changes and has directed that an order be issued to describe said point of diversion, character of use and total quantity limit in accordance with said petitions;

NOW THEREFORE IT IS ORDERED that permission is hereby granted to: (1) change the points of diversion under said Permit 15026 to be described as follows,

- (a) NEW BULLARDS BAR DAM, SOUTH 54°30' EAST 2,350 FEET FROM NW CORNER OF SECTION 25, T15N, R7E, MDB&M, BEING WITHIN SE $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 25.
- (b) PROPOSED MARYSVILLE AFTERBAY DAM WITHIN SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 29, T16N, R5E, MDB&M (PRECISE LOCATION TO BE DETERMINED AT TIME OF CONSTRUCTION).

(2) change the character of use under said Permit 15026 to read as follows:

**IRRIGATION, FLOOD CONTROL, DOMESTIC, INDUSTRIAL,
RECREATIONAL, FISH MITIGATION AND FISH ENHANCEMENT**

- (3) change Permit Term 6 to read:

THE TOTAL QUANTITIES OF WATER APPROPRIATED UNDER LICENSES 435, 436, 777, AND 5544 AND WATER TO BE APPROPRIATED BY STORAGE UNDER PERMITS 15025, 15026, 15027, 15028, 15029, AND 15030 SHALL BE LIMITED TO 960,000 ACRE-FEET PER ANNUM AT NEW BULLARDS BAR RESERVOIR, AND

IT IS FURTHER ORDERED that: (1) Permit Term 5 be amended by addition of the following:

THE TOTAL AMOUNT OF WATER APPROPRIATED UNDER THIS PERMIT SHALL NOT EXCEED 1,140,000 ACRE-FEET ANNUALLY. *superseded*

- (2) Permit Term 13 be amended by addition of the following:

THIS CONTINUING AUTHORITY OF THE BOARD MAY BE EXERCISED BY IMPOSING SPECIFIC REQUIREMENTS OVER AND ABOVE THOSE CONTAINED IN THIS PERMIT WITH A VIEW TO MINIMIZING WASTE OF WATER AND TO MEETING THE REASONABLE WATER REQUIREMENTS OF PERMITTEE WITHOUT UNREASONABLE DRAFT ON THE SOURCE. PERMITTEE MAY BE REQUIRED TO IMPLEMENT SUCH PROGRAMS AS (1) REUSING OR RECLAIMING THE WATER ALLOCATED; (2) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (3) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (4) CONTROLLING PHREATOPHYTIC GROWTH; AND (5) INSTALLING, MAINTAINING, AND OPERATING EFFICIENT WATER MEASURING DEVICES TO ASSURE COMPLIANCE WITH THE QUANTITY LIMITATIONS OF THIS PERMIT AND TO DETERMINE ACCURATELY WATER USE AS AGAINST REASONABLE WATER REQUIREMENTS FOR THE AUTHORIZED PROJECT. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD DETERMINES, AFTER NOTICE TO AFFECTED PARTIES AND OPPORTUNITY FOR HEARING, THAT SUCH SPECIFIC REQUIREMENTS ARE PHYSICALLY AND FINANCIALLY FEASIBLE AND ARE APPROPRIATE TO THE PARTICULAR SITUATION.

- (3) Permit Term 21 be added to the permit as follows:

THE QUANTITY OF WATER DIVERTED UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD IF, AFTER NOTICE TO THE PERMITTEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE

DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

Dated: MAY 11 1973

K. L. Woodward

K. L. Woodward, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2002-0005-DWR

IN THE MATTER OF PERMIT 15026 (APPLICATION 5632)
TEMPORARY CHANGE INVOLVING THE TRANSFER
OF UP TO 162,050 ACRE-FEET OF WATER
FROM THE YUBA COUNTY WATER AGENCY
TO THE DEPARTMENT OF WATER RESOURCES
AND CONTRA COSTA WATER DISTRICT

ORDER AUTHORIZING TEMPORARY CHANGE IN PLACE OF USE,
PURPOSE OF USE, AND POINT OF REDIVERSION
BY THE CHIEF OF THE DIVISION OF WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On February 19, 2002

Yuba County Water Agency
c/o Curt Aikens
1402 D Street
Marysville, CA 95901

filed with the State Water Resources Control Board (SWRCB), a Petition for Temporary Ch under Water Code section 1725, et seq. By letter of April 15, 2002, Yuba County Water Ag (YCWA) modified its petition. As modified, YCWA's petition requests the transfer of up to 162,050 acre-feet (af) of water to the Contra Costa Water District (CCWD) and the Departm Water Resources (DWR). Of this total, up to 5,000 af of water is intended for use by CCWI up to 157,050 af of water is intended for use by DWR under its portion of the CALFED Environmental Water Account (EWA) and its 2002 Dry Year Water Purchase Program

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 15026 (Application 5632),	)	ORDER:	WR 91-05
YUBA COUNTY WATER AGENCY,	)	SOURCES:	North Yuba, Y
Permittee,	)		Middle Yuba, :
	)		Oregon Creek
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE,	)	COUNTIES:	Yuba, Nevada,
	)		Butte, and Sul
Interested Party.)		

ORDER DISMISSING PETITION FOR RECONSIDERATION
OF APRIL 19, 1991 ORDER WHICH REVISED CONDITIONS
OF APPROVAL FOR TEMPORARY TRANSFER OF WATER
FOR USE IN NAPA COUNTY

BY THE BOARD:

1.0 INTRODUCTION

Yuba County Water Agency (YCWA) having filed a temporary change petition to transfer water for use Napa County; the change having been approved on March 27, 1991 in an order signed by State Water Resources Control Board (State Board) Executive Director Walter G. Pettit; the conditions specified the March 27 order having been revised in a subsequent order dated April 19, 1991; the California Sportfishing Protection Alliance (CSPA) having petitioned for

Jee
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STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 15026)
on Application 5632 of)
YUBA COUNTY WATER AGENCY,)
Petitioner.)

ORDER: WR 90-11
SOURCE: North Yuba, Yuba
Middle Yuba, and
Oregon Creek
COUNTY: Yuba, Nevada, Bu
and Sutter

ORDER AFFIRMING ORDER WR 90-8
AND DENYING PETITION FOR RECONSIDERATION

BY THE BOARD:

1.0 INTRODUCTION

The State Water Resources Control Board (Board) have adopted Order WR 90-8 on May 17, 1990, approving temporary changes in purpose of use and place of use the Board having received a timely petition for reconsideration from California Sportfishing Protection Alliance (CSPA), the Bay Institute of San Francisco (BISF), and Pacific Coast Federation of Fishermen's Association (PCFFA), hereinafter referred to collectively as Objector; the Board having duly considered the issues set forth in the petition for reconsideration, the Board finds as follows:

File
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STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 15026)
on Application 5632 of)

YUBA COUNTY WATER AGENCY,)
)
Petitioner.)

ORDER: WR 90-8

SOURCE: North Yuba, Yuba
Middle Yuba, and
Oregon Creek

COUNTY: Yuba, Nevada, Butte
and Sutter

ORDER APPROVING TEMPORARY CHANGES IN
PURPOSE OF USE AND PLACE OF USE
INVOLVING TEMPORARY TRANSFER

BY THE BOARD:

1.0 INTRODUCTION

Yuba County Water Agency (YCWA) having filed a petition on April 4, 1990 under Water Code Section 1725 et seq. for a temporary transfer of water involving a temporary change in purpose of use and place of use; the petition having been supplemented for the third time on April 20, 1990; objections to the proposed transfer and additional information concerning the proposed transfer having been received by May 10, 1990; the State Water Resources Control Board (Board) having adequate information in its files to make the findings required by Water Code Section 1727(a); additional comments

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 15026,)
15027, and 15030 on)
Applications 5332, 15204, and)
15574 of)

YUBA COUNTY WATER AGENCY,)
Petitioner,)

CALIFORNIA SPORTFISHING)
PROTECTION ALLIANCE,)
UNITED ANGLERS OF CALIFORNIA,)
U. S. FISH AND WILDLIFE SERVICE,)
BAY INSTITUTE OF SAN FRANCISCO,)
and the CALIFORNIA DEPARTMENT)
OF FISH AND GAME,)

Interested Parties.)

ORDER: WR [REDACTED]

SOURCES: North Yuba, Yub
Middle Yuba, an
Oregon Creek

COUNTIES: Yuba, Nevada,
Butte, and Sutt

ORDER DISMISSING PETITION FOR RECONSIDERATION
OF ORDER WR 89-17
AND DIRECTING THAT SPECIFIED INFORMATION
BE PROVIDED TO THE
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

BY THE BOARD:

1.0 INTRODUCTION

The Board having issued Order WR 89-17 on July 20,
1989; Order WR 89-17 having approved a temporary
transfer of water from Yuba County Water Agency to
Department of Water Resources; a petition for

Order WR 89-17 having been filed

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional
Temporary Urgency Change Order on
Permits 15026, 15027 and 15030,
Applications ~~15022~~, 15204 and 15574
YUBA COUNTY WATER AGENCY,
Permittee.

ORDER: WR ~~15022~~
SOURCES: North Yuba, Yuba
and Middle Yuba
Rivers and Oregon
Creek
COUNTIES: Yuba, Nevada,
Butte and Sutter

ORDER VALIDATING THE ISSUANCE OF A
CONDITIONAL TEMPORARY URGENCY CHANGE ORDER
TO ADD A POINT OF REDIVERSION
ADD A PURPOSE OF USE AND PLACE OF USE
TO DELIVER WATER TO THE GRASSLAND WATER DISTRICT

BY THE BOARD:

The Yuba County Water Agency (YCWA) having filed a petition for temporary urgency change in point of rediversion, purpose of use and place of use pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the Department of Fish and Game (DFG) and the Department of Water Resources (DWR); Board Chairman Maughan having issued a conditional temporary urgency change order on August 23, 1989 subject to review and validation by the Board within 30 days as provided by Water

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 15026,)
15027, and 15030 on)
Applications 15202, 15204, and)
15574 of)

YUBA COUNTY WATER AGENCY,)
Petitioner,)

CALIFORNIA SPORTFISHING)
PROTECTION ALLIANCE, UNITED)
ANGLERS OF CALIFORNIA,)
U. S. FISH AND WILDLIFE)
SERVICE, BAY INSTITUTE OF)
SAN FRANCISCO, and the)
CALIFORNIA DEPARTMENT OF FISH)
AND GAME,)

Interested Parties.)

ORDER: WR

SOURCES: North Yuba, Yuba,
Middle Yuba, and
Oregon Creek

COUNTIES: Yuba, Nevada,
Butte, and Sutter

ORDER APPROVING
PETITION FOR TEMPORARY CHANGES IN
POINT OF DIVERSION, PURPOSE OF USE, AND PLACE OF USE
INVOLVING TEMPORARY TRANSFER

BY THE BOARD:

1.0 INTRODUCTION

Yuba County Water Agency (YCWA) having filed a pet
on March 28, 1989 under Water Code Section 1725 fo
temporary transfer of water involving a temporary
change in point of diversion, purpose of use and p

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order On Permits 15026 15027 and 15030 issued pursuant to Applications 15204 and 15574	)	ORDER: WR [REDACTED] 1
YUBA COUNTY WATER AGENCY	)	SOURCES: North Yuba, Yuba, and Middle Yuba Rivers and Oregon Creek
Permittee	)	COUNTIES: Yuba, Nevada Butte and Sutter

ORDER MODIFYING AND VALIDATING ISSUANCE OF
CONDITIONAL TEMPORARY URGENCY CHANGE
IN PURPOSE OF USE AND PLACE OF USE

BY THE BOARD:

The Yuba County Water Agency (YCWA) having filed a petition for a temporary Urgency Change in purpose of use and place of use pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the Department of Fish and Game (DFG) and the Department of Water Resources (DWR); Board Chairman Maughan having concluded from available information that YCWA qualifies for Temporary Urgency Change and having issued a Conditional Temporary Urgency Change Order on August 19, 1988, subject to review and validation by the Board as provided by Water Code Section 1435(d); the Board finds as follows:

Substance of the Proposed Change

15204

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 15026, 15027,)
and 15030 on Applications 15202, 15204,)
and 15574 of)

YUBA COUNTY WATER AGENCY,)

Petitioner,)

CALIFORNIA SPORTFISHING PROTECTION)
ALLIANCE,)

Protestant.)

ORDER: WR 15204

SOURCES: North Yuba, Yuba,
Middle Yuba, and
Oregon Creek

COUNTIES: Yuba, Nevada,
Butte, and Sutter

ORDER APPROVING TEMPORARY CHANGES IN
PURPOSE OF USE AND PLACE OF USE INVOLVING TRIAL TRANSFER

BY THE BOARD:

1.0 INTRODUCTION

Yuba County Water Agency (YCWA) having filed a petition on April 18, 1988 under Water Code Section 1735 for a trial transfer of water involving a temporary change of place of use and purpose of use; a protest having been received; a hearing having been held on May 26, 1988; the State Water Resources Control Board (Board) having duly considered all evidence in the record; the Board finds as follows:

2.0 SUBSTANCE OF PETITION

YCWA has petitioned for a trial transfer of 185,000 acre-feet (af) of water from storage in New Bullards Bar Reservoir (Bullards Bar) under Permits 15026, 15027 and 15030 of YCWA to the Department of Water

FIELD ENGINEER

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5632

PERMIT 15026

LICENSE _____

ORDER TO ADD A POINT OF DIVERSION AND REDIVERSION
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 15026 was issued to Yuba County Water Agency on March 28, 1966 pursuant to Application 5632.
2. A petition to add a point of diversion and rediversion on the Yuba River has been filed with the State Water Resources Control Board (Board).
3. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Permit Condition 13 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The points of diversion under this permit shall be as follows:

1. New Bullards Bar Dam - South $54^{\circ}30'$ East 2,350 feet from NW corner of Section 25, T18N, R7E, MDB&M, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 25. Also described as California Coordinate System, Zone 2, North 629,700 East 2,242,800.
2. Proposed Marysville Afterbay Dam - within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29, T16N, R5E, MDB&M, (precise location to be determined at time of construction).

Point of Diversion and Rediversion

3. For Browns Valley Irrigation District - South 1,800 feet and West 1,300 feet from NE corner of Section 29, T16N, R5E, MDB&M, being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 29. Also described as California Coordinate

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

3. Condition 22 is added to this permit as follows:

Permittee shall not divert water from Browns Valley Irrigation District's "Pumpline Diversion Facility" located South 1,800 feet and West 1,300 feet from NE corner of Section 29, T16N, R5E; being within SE¼ of NE¼ of Sect 29, MDB&M, until the permittee has installed fish screening devices satisfactory to the Department of Fish and Game, in accordance with "Agreement for the Installation of a Rock Barrier at the Diversion Facilities of Browns Valley Irrigation District", entered in April 27, 1982, between the Browns Valley Irrigation District and the Department of Fish and Game.

Dated: DECEMBER 28 1988

WAL SIGNAL
LLOY D. JOHNS
Walter C. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA—RESOURCES AGENCY
STATE WATER RIGHTS BOARD

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT NO. 15026

Application 5632 of Yuba County Water Agency

c/o Alvin Landis, Atty. at Law, Suite 1116, 926 J Building, Sacramento, California

filed on July 30 19 87, has been approved by the State Water Rights Board
SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

- | | |
|-----------------------------|--------------------------|
| 1. Name of source(s): | Tributary to: |
| (a) <u>North Yuba River</u> | (a) <u>Yuba River</u> |
| (b) <u>Yuba River</u> | (b) <u>Feather River</u> |
| (c) _____ | (c) _____ |
| (d) _____ | (d) _____ |
| (e) _____ | (e) _____ |

2. Location of point(s) of diversion:

Bearing and distance or coordinate distances from section corner or quarter-section corner	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
New Bullards Bar Dam					
(a) <u>S34°30'E 2690' from NW corner Section 25</u>	<u>SE ¼ of NW ¼</u>	<u>25</u>	<u>18N</u>	<u>7E</u>	<u>NDB&M</u>
New Colgate Diversion Dam					
(b) <u>N76°30'E 1820' from SW corner Section 25</u>	<u>SE ¼ of SW ¼</u>	<u>25</u>	<u>18N</u>	<u>7E</u>	<u>NDB&M</u>
Irrigation Diversion Weir on Yuba River					
(c) <u>N42°10'W 3475' from SE corner Section 28</u>	<u>NW ¼ of SE ¼</u>	<u>28</u>	<u>16N</u>	<u>5E</u>	<u>NDB&M</u>
(d) _____	<u>¼ of ¼</u>				
(e) _____	<u>¼ of ¼</u>				

County of Yuba

3. Place of use: Within Yuba County Water Agency service area consisting of a net irrigable area of 102,909 acres within a gross area of 121,366 acres, as shown on map in support of this application on file with the State Water Rights Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 43 cubic feet per second (cfs) by direct diversion from North Yuba River at New Co Diversion Dam; and 1550 cfs by direct diversion from Yuba River at the Irrigation Diversion Weir; and shall not exceed 490,000 acre-feet per annum (afa) by storage New Bullards Bar Reservoir on North Yuba River. The storage season is from about of each year to about June 30 of the succeeding year. The direct diversion season from about September 1 of each year to about June 30 of the succeeding year.

6. The total quantities of water to be appropriated by storage under permits pursuant to Applications 5631, 5632, 15204, 15205, 15563, and 5574 shall be limited 950,000 afa at New Bullards Bar Reservoir and 6000 afa at Elsburne Arterbay.

7. The maximum amounts herein stated may be reduced in the license if invested warrants.

8. Actual construction work shall begin on or before June 1, 1967, and shall after be prosecuted with reasonable diligence, and if not so commenced and prosecuted the permits may be revoked.

9. Construction work shall be completed on or before December 1, 1975.

10. Application of the water to the proposed uses shall be completed on or before December 1, 2010.

11. Upon the request of the Board, permittee shall make such measurements and obtain and furnish to the Board such records and information as may be necessary to determine compliance with the limitations and conditions of this permit including recognition of vested rights and for the purpose of determining the quantities of water placed to beneficial use under the permit both by direct diversion and storage.

12. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

13. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

14. This permit does not authorize collection of water to storage outside of the specified storage season to offset evaporation or seepage losses or for any other purpose.

15. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

16. In accordance with Water Code Section 1393, Yuba County Water Agency shall remove the site of New Bullards Bar Reservoir and the reservoir to be created by the Irrigation Diversion Weir on Yuba River of all structures, trees and other vegetation which interfere with the use of the reservoirs for water storage and recreation purposes.

17. This permit is subject to compliance with Water Code Section 10504.5(a).

18. This permit is subject to lawful appropriation of water for use in any case in which the water originates without regard to the time such appropriations are made.

19. This permit is subject to that certain agreement between Yuba County Water Agency and Nevada Irrigation District dated November 13, 1961, filed of record with the State Water Rights Board as Yuba's Exhibit 37 at the hearing of Applications 5631 etc., insofar as such agreement relates to matters within the jurisdiction of the Board.

20. This permit is subject to that certain agreement between Yuba County Water Agency and the California Department of Fish and Game dated November 28, 1962, filed of record with the State Water Rights Board as Yuba's Exhibit 38 at the hearing of Applications 5631 etc., insofar as such agreement relates to matters within the jurisdiction of the Board.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this division and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code), or in respect to any valuation for purposes of sale to or purchase by any person.

recording requested by:
STATE WATER RESOURCES CONTROL BOARD
Pursuant to Government Code Sec. 6103.

When recorded mail to:
STATE WATER RESOURCES CONTROL BOARD
Room 1140, Resources Building
1416 Ninth Street
Sacramento, California 95814

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5632

PERMIT 15026

LICENSE _____

ORDER FOR CORRECTION OF PERMIT TERMS

WHEREAS:

1. Terms No. 5 and No. 6 of Permit 15026 as amended by Order of the State Water Resources Control Board dated May 11, 1973, have been found to incorrectly designate the amount of water which may be appropriated annually under Permit 15026 and the limitation of diversion to storage in New Bullards Bar Reservoir under the several permits and licenses of the Yuba County Water Agency has been incorrectly designated and the State Water Resources Control Board has determined that good cause for correction has been shown.

2. Correction of Terms 5 and 6 of Permit 15026 does not involve any physical change, and said correction will not operate to the injury of any other legal user of water.

NOW, THEREFORE, IT IS ORDERED:

1. That Term No. 5 of Permit 15026 be corrected to read as follows:

THE WATER APPROPRIATED SHALL BE LIMITED TO THE QUANTITY WHICH CAN BE BENEFICIALLY USED, AND SHALL NOT EXCEED 43 CUBIC FEET PER SECOND (CFS) BY DIRECT DIVERSION FROM NORTH YUBA RIVER; AND 1,550 CFS BY DIRECT DIVERSION FROM YUBA RIVER; AND SHALL NOT EXCEED 490,000 ACRE- FEET PER ANNUM (AFA) BY STORAGE IN NEW BULLARDS BAR RESERVOIR ON NORTH YUBA RIVER. THE STORAGE SEASON IS FROM OCTOBER 1 OF EACH YEAR TO JUNE 30 OF THE SUCCEEDING YEAR. THE DIRECT DIVERSION SEASON IS FROM SEPTEMBER 1 OF EACH YEAR TO JUNE 30 OF THE SUCCEEDING YEAR.

THE TOTAL AMOUNT OF WATER TAKEN FROM THE SOURCES UNDER THIS PERMIT SHALL NOT EXCEED 1,159,000 ACRE- FEET PER WATER YEAR OF OCTOBER 1 TO SEPTEMBER 30.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5632

PERMIT 15026

LICENSE _____

ORDER TO ADD A POINT OF DIVERSION AND REDIVERSION
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 15026 was issued to Yuba County Water Agency on March 28, 1966 pursuant to Application 5632.
2. A petition to add a point of diversion and rediversion on the Yuba River has been filed with the State Water Resources Control Board (Board).
3. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Permit Condition 13 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The points of diversion under this permit shall be as follows:

1. New Bullards Bar Dam - South 54°30' East 2,350 feet from NW corner of Section 25, T18N, R7E, MDB&M, being within SE¼ of NW¼ of said Section 25. Also described as California Coordinate System, Zone 2, North 629,700 East 2,242,800.
2. Proposed Marysville Afterbay Dam - within SW¼ of SW¼ of Section 29, T16N, R5E, MDB&M, (precise location to be determined at time of construction).

Point of Diversion and Rediversion

3. For Browns Valley Irrigation District - South 1,800 feet and West 1,300 feet from NE corner of Section 29, T16N, R5E, MDB&M, being within SE¼ of NE¼ of Section 29. Also described as California Coordinate

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

3. Condition 22 is added to this permit as follows:

Permittee shall not divert water from Browns Valley Irrigation District's "Pumpline Diversion Facility" located South 1,800 feet and West 1,300 feet from NE corner of Section 29, T16N, R5E; being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 29, MDB&M, until the permittee has installed fish screening devices satisfactory to the Department of Fish and Game, in accordance with "Agreement for the Installation of a Rock Barrier at the Diversion Facilities of Browns Valley Irrigation District", entered in April 27, 1982, between the Browns Valley Irrigation District and the Department of Fish and Game. (00

Dated: DECEMBER 23 1968

for *Lloyd Johnson*
Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5632

PERMIT 15026

LICENSE _____

ORDER AMENDING THE PERMIT

WHEREAS:

1. Permit 15026 was issued to Yuba County Water Agency on March 28, 1966.
2. After reviewing the permittee's Plan of Compliance, the staff recommended and the Permittee agreed to a term being added to Permit 15026.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 21 is added to this permit as follows:

"Any fishery flow release requirements contained or referenced in this permit shall be made in accordance with the permittee's Plan of Compliance accepted by the Division of Water Rights."

Dated: SEPTEMBER 23 1986

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

2. That Term No. 6 of Permit 15026 be corrected to read as follows:

THE TOTAL QUANTITIES OF WATER APPROPRIATED BY STORAGE UNDER LICENSES 435, 436, 777, AND 5544 AND WATER TO BE APPROPRIATED BY STORAGE UNDER PERMITS 15025, 15026, 15027, 15028, 15029, AND 15030 SHALL BE LIMITED TO 960,000 ACRE-Feet PER ANNUM AT NEW BULLARDS BAR RESERVOIR.


R. L. ROSENBERGER, Chief
Division of Water Rights

Dated: MAR 30 1976

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5632

PERMIT 15026

LICENSE _____

ORDER FOR CORRECTION OF PERMIT TERMS

WHEREAS:

1. Terms No. 5 and No. 6 of Permit 15026 as amended by Order of the State Water Resources Control Board dated May 11, 1973, have been found to incorrectly designate the amount of water which may be appropriated annually under Permit 15026 and the limitation of diversion to storage in New Bullards Bar Reservoir under the several permits and licenses of the Yuba County Water Agency has been incorrectly designated and the State Water Resources Control Board has determined that good cause for correction has been shown.

2. Correction of Terms 5 and 6 of Permit 15026 does not involve any physical change, and said correction will not operate to the injury of any other legal user of water.

NOW, THEREFORE, IT IS ORDERED:

1. That Term No. 5 of Permit 15026 be corrected to read as follows:

THE WATER APPROPRIATED SHALL BE LIMITED TO THE QUANTITY WHICH CAN BE BENEFICIALLY USED, AND SHALL NOT EXCEED 43 CUBIC FEET PER SECOND (CFS) BY DIRECT DIVERSION FROM NORTH YUBA RIVER; AND 1,550 CFS BY DIRECT DIVERSION FROM YUBA RIVER; AND SHALL NOT EXCEED 490,000 ACRE-Feet PER ANNUM (AFA) BY STORAGE IN NEW BULLARDS BAR RESERVOIR ON NORTH YUBA RIVER. OF THE SUCCEEDING YEAR. THE DIRECT DIVERSION SEASON IS FROM SEPTEMBER 1 OF EACH YEAR TO JUNE 30 OF THE SUCCEEDING YEAR.

... TAKEN FROM THE SOURCES UNDER THIS

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ROOM 1015, RESOURCES BUILDING

1416 NINTH STREET • SACRAMENTO 95814

**ORDER ALLOWING CHANGES IN POINTS OF DIVERSION,
CHARACTER OF USE AND TOTAL QUANTITY LIMIT;
AMENDING PERMIT TERMS 5 AND 13 AND ADDING
PERMIT TERM 21**

Permit 15026

Application 56

WHEREAS the State Water Resources Control Board has found that the requested changes under Permit 15026 for which petitions were submitted on September 30, 1971 will not operate to the injury of any other legal user of water, and

WHEREAS the Board has approved and allowed said changes has directed that an order be issued to describe said point of diversion, character of use and total quantity limit in accordance with said petitions;

NOW THEREFORE IT IS ORDERED that permission is hereby granted to: (1) change the points of diversion under said Permit to be described as follows,

- (a) NEW BULLARDS BAR DAM, SOUTH 54°30' EAST 2,350 FEET FROM NW CORNER OF SECTION 25, T15N, R7E, MDB&M, BEING WITHIN SE $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 25.
- (b) PROPOSED MARYSVILLE AFTERBAY DAM WITHIN SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 29, T16N, R5E, MDB&M (PRECISE LOCATION TO BE DETERMINED AT TIME OF CONSTRUCTION).

(2) change the character of use under said Permit 15026 to read as follows:

- (3) change Permit Term 6 to read:

THE TOTAL QUANTITIES OF WATER APPROPRIATED UNDER LICENSES 435, 436, 777, AND 5544 AND WATER TO BE APPROPRIATED BY STORAGE UNDER PERMITS 15025, 15026, 15027, 15028, 15029, AND 15030 SHALL BE LIMITED TO 960,000 ACRE-FEET PER ANNUM AT NEW BULLARDS BAR RESERVOIR, AND

IT IS FURTHER ORDERED that: (1) Permit Term 5 be amended by addition of the following:

THE TOTAL AMOUNT OF WATER APPROPRIATED UNDER THIS PERMIT SHALL NOT EXCEED 1,140,000 ACRE-FEET ANNUALLY.

- (2) Permit Term 13 be amended by addition of the following:

THIS CONTINUING AUTHORITY OF THE BOARD MAY BE EXERCISED BY IMPOSING SPECIFIC REQUIREMENTS OVER AND ABOVE THOSE CONTAINED IN THIS PERMIT WITH A VIEW TO MINIMIZING WASTE OF WATER AND TO MEETING THE REASONABLE WATER REQUIREMENTS OF PERMITTEE WITHOUT UNREASONABLE DRAFT ON THE SOURCE. PERMITTEE MAY BE REQUIRED TO IMPLEMENT SUCH PROGRAMS: (1) REUSING OR RECLAIMING THE WATER ALLOCATED; (2) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (3) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (4) CONTROLLING PHREATOPHYTIC GROWTH; AND (5) INSTALLING, MAINTAINING AND OPERATING EFFICIENT WATER MEASURING DEVICES TO ASSURE COMPLIANCE WITH THE QUANTITY LIMITATIONS OF THIS PERMIT AND TO DETERMINE ACCURATELY WATER USE AS AGAINST REASONABLE WATER REQUIREMENTS FOR THE AUTHORIZED PROJECT. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD DETERMINES, AFTER NOTICE TO AFFECTED PARTIES AND OPPORTUNITY FOR HEARING, THAT SUCH SPECIFIC REQUIREMENTS ARE PHYSICALLY AND FINANCIALLY FEASIBLE AND ARE APPROPRIATE TO THE PARTICULAR SITUATION.

(0000012)

- (3) Permit Term 21 be added to the permit as follows:

THE QUANTITY OF WATER DIVERTED UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD IF, AFTER NOTICE TO THE PERMITTEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFI-

DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER
QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY
OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CON-
TROL OF WASTE DISCHARGES.

(0000013)

Dated: **MAY 11 1973**

K. L. Woodward
K. L. Woodward, Chief
Division of Water Rights

STATE OF CALIFORNIA—RESOURCES AGENCY
STATE WATER RIGHTS BOARD

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT NO. 15026

Application 5632 of Yuba County Water Agency

c/o Alvin Landis, Atty. at Law, Suite 1116, 926 J Building, Sacramento, California

filed on July 30 19 27, has been approved by the State Water Rights Board
SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

- | 1. Name of source(s): | Tributary to: |
|-----------------------------|--------------------------|
| (a) <u>North Yuba River</u> | (a) <u>Yuba River</u> |
| (b) <u>Yuba River</u> | (b) <u>Feather River</u> |
| (c) _____ | (c) _____ |
| (d) _____ | (d) _____ |
| (e) _____ | (e) _____ |

2. Location of point(s) of diversion:

Bearing and distance or coordinate distances from section corner or quarter-section corner	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
New Bullards Bar Dam					
(a) <u>S34°30'E 2690' from NW corner Section 25</u>	<u>SE ¼ of NW ¼</u>	<u>25</u>	<u>18N</u>	<u>7E</u>	<u>MDB&M</u>
New Colgate Diversion Dam					
(b) <u>N76°30'E 1820' from SW corner Section 25</u>	<u>SE ¼ of SW ¼</u>	<u>25</u>	<u>18N</u>	<u>7E</u>	<u>MDB&M</u>
Irrigation Diversion Weir on Yuba River					
(c) <u>N42°10'W 3475' from SE corner Section 28</u>	<u>NW ¼ of SE ¼</u>	<u>28</u>	<u>16N</u>	<u>5E</u>	<u>MDB&M</u>
(d) _____	<u>¼ of ¼</u>				
(e) _____	<u>¼ of ¼</u>				

County of Yuba

3. Place of use: Within Yuba County Water Agency service area consisting of a net irrigable area of 102,989 acres within a gross area of 121,366 acres, as shown on map in support of this application on file with the State Water Rights Board.

- (000005) 5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 43 cubic feet per second (cfs) by direct diversion from North Yuba River at New Co Diversion Dam; and 1550 cfs by direct diversion from Yuba River at the Irrigation Diversion Weir; and shall not exceed 490,000 acre-feet per annum (afa) by storage New Bullards Bar Reservoir on North Yuba River. The storage season is from about of each year to about June 30 of the succeeding year. The direct diversion season from about September 1 of each year to about June 30 of the succeeding year.
- (0000114) 6. The total quantities of water to be appropriated by storage under permits pursuant to Applications 5631, 5632, 15204, 15205, 15563, and 15574 shall be limit 930,000 afa at New Bullards Bar Reservoir and 6000 afa at Timbuctoo Afterbay.
- (0000006) 7. The maximum amounts herein stated may be reduced in the license if investi warrants.
- (0000007) 8. Actual construction work shall begin on or before June 1, 1967, and shall after be prosecuted with reasonable diligence, and if not so commenced and prosec the permits may be revoked.
- (0000008) 9. Construction work shall be completed on or before December 1, 1973.
- (0000009) 10. Application of the water to the proposed uses shall be completed on or bef December 1, 2010.
- (0000099) 11. Upon the request of the Board, permittee shall make such measurements and tain and furnish to the Board such records and information as may be necessary to determine compliance with the limitations and conditions of this permit including recognition of vested rights and for the purpose of determining the quantities of placed to beneficial use under the permit both by direct diversion and storage.
- (0000010) 12. Progress reports shall be filed promptly by permittee on forms which will provided annually by the state Water Rights Board until license is issued.
- (0000012) 13. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing autho of the State Water Rights Board in accordance with law and in the interest of the welfare to prevent waste, unreasonable use, unreasonable method of use or unreason method of diversion of said water.
- (0000005) 14. This permit does not authorize collection of water to storage outside of t specified storage season to offset evaporation or seepage losses or for any other
- (0000011) 15. Permittee shall allow representatives of the State Water Rights Board and parties, as may be authorized from time to time by said Board, reasonable access project works to determine compliance with the terms of this permit.
- (0020050) 16. In accordance with Water Code Section 1393, Yuba County Water Agency shall the site of New Bullards Bar Reservoir and the reservoir to be created by the Irr Diversion Weir on Yuba River of all structures, trees and other vegetation which interfere with the use of the reservoirs for water storage and recreation purpose
- (0000099) 17. This permit is subject to compliance with Water Code Section 10504.5(a).
- (0000099) 18. This permit is subject to lawful appropriation of water for use in any cou in which the water originates without regard to the time such appropriations are
- (0000300) 19. This permit is subject to that certain agreement between Yuba County Water and Nevada Irrigation District dated November 13, 1961, filed of record with the Water Rights Board as Yuba's Exhibit 37 at the hearing of Applications 5631 etc., as such agreement relates to matters within the jurisdiction of the Board.
- (0000300) 20. This permit is subject to that certain agreement between Yuba County Water Agency and the California Department of Fish and Game dated November 28, 1962, an of record with the State Water Rights Board as Yuba's Exhibit 38 at the hearing o Applications 5631 etc., insofar as such agreement relates to matters within the jurisdiction of the Board.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this act and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted under the provisions of this division (of the Water Code).

APPLICATION 5632

PERMIT 15026

SEE D1159 DATED 12/19/63

SEE WR 88-12 DATED 7/6/88

SEE WR 88-17 DATED 9/7/88

SEE WR 89-17 DATED 7/20/89

SEE WR 89-20 DATED 9/21/89

SEE WR 89-23 DATED 10/19/89

SEE WR 90-8 DATED 5/17/90

SEE WR 90-11 DATED 8/1/90

SEE WR 90-14 DATED 9/20/90

SEE 91-05 DATED 7/18/91

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER QUALITY AND WATER RIGHTS

ORDER AMENDING ORDER OF MARCH 27, 1991
APPROVING TEMPORARY CHANGES, INVOLVING THE TRANSFER OF WATER
AFFECTING POINTS OF DIVERSION, THE PLACE OF USE,
AND THE PURPOSES OF USE FOR NAPA

UNDER YUBA COUNTY WATER AGENCY'S
PERMIT 15026 (APPLICATION 5632)

WHEREAS:

1. On February 6, 1991, the Yuba County Water Agency (YCWA) filed a Petition (Notice) for Temporary Changes, under Water Code Section 1725 et seq., with the State Water Resources Control Board (State Board). YCWA petitions for the transfer of up to 7,500 acre-feet (af) of water, for municipal and industrial uses, to the following member agencies of the Napa County Flood Control and Water Conservation District: the City of Napa, the City of Calistoga, the City of St. Helena, and the American Canyon County Water District. The City of Napa would serve as the representative for the member agencies, who collectively are referred to as "NAPA" in the petition and herein. The proposed water transfer would occur during the April 1, 1991 through October 15, 1991 period, at a maximum diversion rate of 21 cubic feet per second (cfs).
2. On March 27, 1991, an Order approving the temporary changes was signed by Walter G. Pettit, pursuant to a delegation of authority from the State Board.
3. On April 12, 1991, the State Board received a letter from Bookman-Edmonston Engineering, Inc. (representing YCWA) requesting that by April 18, 1991, the maximum temperatures set forth in Condition 5 of the Order be eliminated from the Order. The summary portion of the letter in part stated:
"YCWA will begin release of colder water from New Bull Run Reservoir in late summer, as was done in 1990, to provide cold water in Englebright Reservoir for the fall salmon runs. However, it is not possible to assure that the Order's temperature limits can be met. Therefore, because (1) there will not be any unreasonable adverse impacts on instream values as a result of the NAPA transfer, (2) there will be slightly increased flows and (3) the maximum water temperature limits cannot be assuredly met without substantially greater flows, it is

4. Condition 5 of the March 27, 1991 Order stated:

YCWA shall, for the protection of fish and wildlife habitat, provide in the Yuba River at least the following minimum flow (as measured at the USGS gage near Marysville), while maintaining water temperatures below the associated maximum limits, as follows:

<u>Month</u>	<u>Minimum Flow (cfs)</u>	<u>Maximum Temperature (°F)</u>	
		<u>Daguerre Point Dam</u>	<u>Marysville</u>
April	265		56
May	265		65
June	265		65
July	90		--
August	90		--
September	90		--
October 1-15	400	60	--
October 16-31	400	56	--
November	400		56
December	400		56

5. Condition 5, of the March 27, 1991 Order reflects the minimum instream flows required under the 1965 Agreement, between YCWA and the Department of Fish and Game (DFG), for the maintenance of fishlife in the Yuba River immediately below Daguerre Point Dam during a normal water year.

The maximum temperature limits were taken from Board Order WR 90-8. However, the temperature limits were for minimum flows that were significantly higher than are current project for the Yuba River.

6. Achievement of mean daily temperature below the maximum temperatures of Condition 5 could potentially obligate YCWA to release a significant amount of water in excess of the 7,500 transfer to NAPA.

7. The Department of Fish and Game (DFG) has indicated agreement with the proposed modification, for the following reasons:
a) Board Order WR 90-8, of May 17, 1990, approved a temporary transfer of Yuba River water with specific terms and conditions for the enhancement of chinook salmon spawning and rearing for the 1990-91 brood year.

- through July period.
- d) Since few Shad are expected in the Yuba River, DFG does not recommend temperature control for the Shad fishery this water transfer.
 - e) DFG would like the water temperatures set forth in Condition 5 of the March 27, 1991 Order to be goals rather than requirements. Therefore, YCWA would operate its project in a manner to attempt to keep the Yuba River daily water temperature at or below the temperatures set forth in Condition 5 of the Order.
8. The natural production of salmon in the state has declined severely over the last twenty years that it is now state policy to significantly increase the natural production (Salmon, Steelhead Trout, and Anadromous Fisheries Program Act, Stats. 1988, ch. 1545/88, and Fish and Game Code Section 6902(a)).
9. Pursuant to the State Board's jurisdiction reserved in Condition 9 of the March 27, 1991 Order, it is found that Condition 5 of that Order should be amended as set forth below.

CONCLUSIONS:

- 10. A maximum mean daily water temperature of 65°F is desirable in the Yuba River through June 1991 to protect the young-of-the-year chinook salmon produced as a result of terms and conditions of Board Order WR 90-8.
- 11. Water temperature guidelines are necessary in the Yuba River to protect a public trust resource, and to comply with the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act Stats. 1988, ch. 1545/88, and Fish and Game Code Section 6902(a).
- 12. The proposed modification would not constitute the initiation of a new right nor operate to the injury of any lawful user of the water; provided that terms and conditions are included as set forth in the order below.
- 13. The proposed modification would not unreasonably affect fish and wildlife, or other instream beneficial uses of water.
- 14. The proposed modification should be approved and an order issued, with appropriate terms and conditions, for the water transfer.

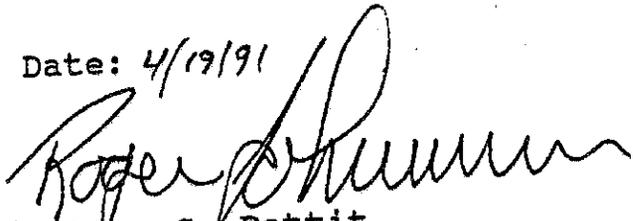
ORDER

NOW, THEREFORE, IT IS ORDERED that Condition 5 of the March 27, 1991 Order Approving Temporary Changes, Involving the Transfer of Water, Affecting Points of Diversion, Place of Use, and the Purposes of Use for NAPA be amended to read:

5. YCWA shall, for the protection of fish and wildlife habitat, provide in the Yuba River at least the following minimum flow (as measured at the USGS gage near Marysville), while making best faith efforts (not requiring additional release of water to maintain mean daily water temperatures below the stated mean daily temperatures, as follows:

<u>Month</u>	<u>Minimum Flow (cfs)</u>	<u>Mean Daily Temperature (°F) Marysville</u>
April	265	65
May	265	65
June	265	--
July	90	--
August	90	--
September	90	--
October 1-15	400	--

Date: 4/19/91


Walter G. Pettit

STATE WATER RESOURCES CONTROL BOARD

THE PAUL F. BONDERSON BUILDING
901 P STREET
SACRAMENTO, CA 95814

Mailing Address:

DIVISION OF WATER RIGHTS
P.O. BOX 2000, Sacramento, CA 95812-20

916/324-5621

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER QUALITY AND WATER RIGHTS

ORDER APPROVING TEMPORARY CHANGES, INVOLVING THE TRANSFER OF WATER
AFFECTING POINTS OF DIVERSION, THE PLACE OF USE,
AND THE PURPOSES OF USE FOR NAPA

UNDER YUBA COUNTY WATER AGENCY'S
PERMIT 15026 (APPLICATION 5632)

WHEREAS:

1. On February 6, 1991, the Yuba County Water Agency (YCWA) filed a Petition (P) for Temporary Changes, under Water Code Section 1725 et seq., with the State Resources Control Board (State Board). YCWA petitions for the transfer of up to acre-feet (af) of water, for municipal and industrial uses, to the following agencies of the Napa County Flood Control and Water Conservation District: the City of Napa, the City of Calistoga, the City of St. Helena, and the American Canyon Water District. The City of Napa would serve as the representative for the agencies, who collectively are referred to as "NAPA" in the petition and herein. The proposed water transfer would occur during the April 1, 1991 through October 1, 1991 period, at a maximum diversion rate of 21 cubic feet per second (cfs).
2. The proposed water transfer is similar to YCWA's 1989 and 1990 water transfers to NAPA, each involving 7,000 af of water. Those transfers were approved by the Board of the Division of Water Rights, pursuant to a delegation of authority from the State Board.
3. YCWA provided copies of the petition to known interested parties.
4. NAPA needs the 7,500 af of water due to the continuing drought. As of March 1, 1991, precipitation in the San Francisco Bay Area was about 35 percent of normal: compared to about 55 percent in 1990, and 70 percent in 1989. Runoff in the Napa River at St. Helena, was about 2 percent of normal. Inflow to the City of Napa's Hennessey was about 35 percent of normal, with storage there being about 42 percent of normal. Precipitation since March 1, 1991 has not changed the need for the transfer.
5. The 7,500 af of water proposed for transfer is presently stored in YCWA's New Butte Reservoir located on the Yuba River. The water would be released to flow down the Yuba River thence the Sacramento River thence the western Sacramento-San Joaquin Delta (Delta) to Lindsey Slough, located in Solano County northwest of Rio Vista. The water would be rediverted there by the Department of Water Resources (DWR)

6. In 1965, YCWA and the Department of Fish and Game, for the maintenance of fish, signed an agreement requiring minimum flows in the Yuba River immediately downstream of Daguerre Point Dam (for a normal water year), as follows:

January 1 through June 30 245 cfs,
July 1 through September 3070 cfs, and
October 1 through December 31 ..400 cfs.

(Note: The agreement provides for lower flows in the event of a critical drought year.)

7. Water temperature limits, for the benefit of fishlife in the Yuba River, have been developed from the record of previous YCWA water transfers.
8. On March 28, 1966, Permit 15026 was issued to YCWA pursuant to Application 15026 following the December 19, 1963 adoption of the State Board's Decision 1159.
9. On February 11, 1991, the U.S. Fish and Wildlife Service (Service) commented on the YCWA/NAPA petition that because of the continuing drought conditions all proposed transfer impact(s) should be assessed on a cumulative basis. State Board Chairman W. Don Maughan responded to the Service's comments in a letter dated March 1, 1991. Chairman Maughan advised the Service that, in reviewing proposed transfers, the State Board looks at all available environmental information and it is expected that all proposed transfers for the current year will be grouped together for purpose of review. Chairman Maughan's letter went on to state "...given the critical nature of California's current water shortage and the compressed time frames we will be facing, I cannot guarantee you that the cumulative impact of each and every proposed transfer will be fully evaluated. We simply will do the best we can under the circumstances."
10. Water Code Section 109(a), states in part "It is hereby declared to be the established policy of this state to facilitate the voluntary transfer of water and water rights where consistent with the public welfare of the place of export and the place of import."
11. The State Board's authority to issue an order approving temporary changes, in the transfer or exchange of water or water rights, is set forth in Chapter 10, Part 2 of Division 2 of the Water Code (commencing with Water Code Section 1727). Approval of a petition for temporary changes requires the State Board to conduct an evaluation sufficient to determine that the change would not injure any legal right of the water, and would not unreasonably affect fish, wildlife, or other beneficial uses (Water Code Sections 1727(a)(1) and 1727(a)(2)). If the State Board's finding cannot be made within 60 days (or such extension of time as the permit licensee agrees to), then the State Board shall set a time and place for a hearing on the issues, and notify interested parties.

12. On February 11, 1991, the State Board received an operations study of New Bullards Bar Reservoir, submitted by Bookman-Edmonston Engineering, Inc., indicating that it would be able to supply 1992 inbasin needs, provide water for the proposed transfer and have about a 50,000 af buffer above the 234,000 af needed to meet local demand in the following year. Also, significant precipitation has occurred in the Bullards Bar area since the operations study was submitted.
13. Staff of the California Regional Water Quality Control Board, Region 5, has concluded that the proposed water transfer would not adversely affect water quality.
14. Water Code Section 1729 states "A proposed temporary change under this article shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code." This exemption allows the State Board's evaluation to be accepted in lieu of the formal requirements of the California Environmental Quality Act.
15. On page 9 of State Board Order WR 89-20, related to a water transfer through the Harvey O. Banks pumping plant, it was stated "...in the future, the Board will approve projects which involve increased Delta exports in the absence of an adequate environmental assessment which addresses potential fishery impacts and adverse environmental effects of the proposed project." Although the Barker Plant is outside the legal boundary of the Delta, the proposed water transfer does not involve entrainment and reverse flow problems which exist in the southern Delta, as addressed in State Board Order WR 89-20. Diversions into the NBA are protected by an effective fish screen and such diversions do not create the entrainment and reverse flow problems which exist in the southern Delta.
16. The Department of Fish and Game (DFG) does not object to the proposed water transfer.
17. On March 4, 1991, the State Board received a document titled: "Environmental Impact Analysis: Yuba County Water Agency Water Transfer to the City of Napa, 1991" prepared by the firm of Jones and Stokes Associates. The Jones and Stokes Associates analysis describes the NBA fish screens and fish potentially affected by the proposed transfer. The analysis includes the following statements:

"Thirty-one species of fish have been taken from Barker and Lindse Sloughs, including eight cyprinid species, six sunfish species, four catfish species, striped bass, American shad, chinook salmon, and steelhead trout."

"The species most adversely affected would likely be striped bass....the adult striped bass population could be reduced by an estimated 21-30 percent of fish. This loss of adult fish would be undetectable and is much less than one percent of striped bass losses to other diversions. The magnitude of this impact on an adult population estimated at approximately one million fish is 0.002 to 0.004 percent. In addition, there have been no known unreasonable impacts from similar transfers although the NBA conducted during previous years."

18. On March 20, 1991, the State Board received comments from the California Sportsfishing Protection Alliance (CSPA). The comments address the deficiency in the Jones and Stokes analysis. Board staff has assessed the comments to be germane to "transfers through the Delta" not the impact of a transfer of water, at a maximum rate of 21 cfs, through the NBA. Also, CSPA's concern regarding cumulative impacts was addressed in the State Board's response. Service's comment on cumulative impacts as discussed above.
19. On March 6, 1991, the State Board adopted Resolution 91-21, delegating authority to approve petitions for temporary changes to Walter G. Pettit, Chief of Division of Standards and Assessments, provided that the necessary statutory finding can be made.

CONCLUSIONS:

20. Permittee has proceeded with diligence and good cause has been shown for the petitioned temporary changes.
21. The petitioned temporary changes do not constitute the initiation of a new project which would operate to the injury of any lawful user of the water; provided that the following conditions are included as set forth in the order below.
22. The petitioned temporary changes would not unreasonably affect fish, wildlife, and other instream beneficial uses of water.
23. The statutory requirements for approval of the proposed transfer of water are satisfied, and available evidence raises no issue requiring a hearing.
24. The petitioned temporary changes should be approved and an order issued with appropriate terms and conditions, for the water transfer.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Diversion and use of water authorized by this order shall be subject to all the terms and conditions of Permit 15026, except as modified by this order.
2. Permittee may transfer up to 7,500 af of water from the New Bullards Bar Reservoir at a rate up to 21 cfs; beginning five days following the date of this order approval shall be of no further force or effect on October 16, 1991.
3. NAPA may authorize DWR to redivert the transferred water at the Barker Point point of such rediversion, on Lindsey Slough in Solano County, is described as follows:

5. YCWA shall, for the protection of fish and wildlife habitat, provide in the River at least the following minimum flows, (as measured at the USGS gage Marysville), while maintaining water temperatures below the associated maximum limits, as follows:

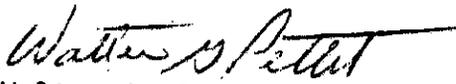
<u>Month</u>	<u>Minimum Flow (cfs)</u>	<u>Maximum Temperature (°F)</u>	
		<u>Daguerre Point Dam</u>	<u>Marysville</u>
April	265		56
May	265		65
June	265		65
July	90		--
August	90		--
September	90		--
October 1-15	400	60	--
October 16-31	400	56	--
November	400		56
December	400		56

6. By the 20th day of each month, through January 1992, YCWA shall provide to the Board, DFG, and other parties who request it, the following provisional daily report for the preceding month (as measured in the Yuba River at the USGS gage Marysville): the mean Yuba River flow (cfs), the amount of water transferred to NAPA (af), and the maximum water temperature (°F). Exceptions to the authorized conditions shall be explained. The reports shall be submitted to the State Board, titled as "A5632 -- 1991 YCWA/NAPA TRANSFER FILE (CONDITION 6)."
7. By May 1, 1992, YCWA shall provide the State Board with a summary report, showing the following daily data (as measured in the Yuba River at the USGS gage Marysville): the amount of water transferred to NAPA (af), the cumulative amount of water transferred to NAPA (af), and the maximum daily water temperature (°F). Exceptions to the authorized conditions shall be explained. The report shall be submitted to the State Board, titled as "A5632 -- 1991 YCWA/NAPA TRANSFER FILE (CONDITION 7)."
8. Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the State Board also may be exercised by imposing specific requirements over and above those contained in this order with a view to minimize waste of water and to meet the reasonable water requirements of the permittee without unreasonable draft on the source.

9. The State Board reserves jurisdiction to supervise the transfer and use under this order, and to coordinate or modify terms and conditions, at the direction of the State Board, for the protection of vested rights, fish, wildlife, beneficial uses, and the public interest as future conditions may warrant.

Date: March 27, 1991



Walter G. Pettit

