

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

**WR ORDER 2002-0014-DWR**

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**IN THE MATTER OF PERMITS 1267 AND 2492 (APPLICATIONS 1651 AND 2778)  
PETITION FOR TEMPORARY CHANGE  
INVOLVING THE TRANSFER OF UP TO 10,000 ACRE-FEET OF WATER FROM  
OROVILLE-WYANDOTTE IRRIGATION DISTRICT TO  
THE ENVIRONMENTAL WATER ACCOUNT**

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

On September 27, 2002,

Oroville-Wyandotte Irrigation District  
c/o Michael C. Glaze  
P.O. Box 581  
Oroville, CA 95965-0581

filed with the State Water Resources Control Board (SWRCB), a Petition for Temporary Change under Water Code section 1725, et seq. If approved, the Oroville-Wyandotte Irrigation District (OWID) would transfer up to 10,000 acre-feet (af) of water to the Environmental Water Account (EWA). The water would be stored in Oroville Reservoir for use within the Central Valley Project (CVP) and the State Water Project (SWP) service areas and wildlife refuges. Temporary changes under Water Code section 1725 may be effective for a period up to one year.

**1.1 Description of the Transfer** OWID proposes to transfer up to 10,000 af of water under Permits 1267 and 2492 (Applications 1651 and 2778) to EWA. To facilitate the transfer, OWID proposes to release an additional 10,000 af of water currently stored in Little Grass Valley Reservoir and Sly Creek Reservoir and allow it to spill from Ponderosa Reservoir directly into Oroville Reservoir (during November and December of 2002). The water would remain in storage in Oroville Reservoir for use by EWA within the CVP and SWP service areas and wildlife refuges. Water would be delivered to these service areas via releases from Oroville Reservoir to the Feather River thence the Sacramento River thence the San Francisco Bay/Sacramento-San Joaquin Delta and rediversion at the Clifton Court Forebay.

**2.0 BACKGROUND**

**2.1 Substance of OWID's Permits** OWID holds Permits 1267 and 2492 (Applications 1651 and 2778). Permit 1267 authorizes the diversion to storage of up to 109,012 af of water per annum from the South Fork Feather River between October 1 and July 1. Permit 1267 also authorizes the direct diversion from the South Fork Feather River of up to 200 cubic feet per second (cfs) between April 1 and July 1. The point of diversion to storage for Permit 1267 is located at the Little Grass Valley Dam. Points of rediversion include the South Fork Diversion Dam, Sly Creek Dam, Lost Creek Dam, Forbestown Dam, and Ponderosa Dam. Water is used for irrigation and domestic purposes within the authorized place of use as

shown on map dated May 8, 1922, on file with the SWRCB, and for recreational purposes within Little Grass Valley Reservoir, Sly Creek Reservoir, Lost Creek Reservoir, and Ponderosa Reservoir.

Permit 2492 authorizes the diversion to storage of up to 25,000 af of water per annum from Lost Creek between October 1 and June 1. Permit 2492 also authorizes the direct diversion from Lost Creek of up to 50 cfs between April 1 and June 1. The point of diversion for Permit 2492 is located at the Sly Creek Dam and the point of rediversion is located at the Lost Creek Dam. The water is used for irrigation and domestic purposes within the authorized place of use as shown on map dated May 8, 1922, on file with the SWRCB, and for recreational purposes within Sly Creek Reservoir, Lost Creek Reservoir, and Ponderosa Reservoir

**2.2 Place of Use and Purposes of Use under the Proposed Transfer** The service areas of the SWP (as shown on maps 1878-1, 2, 3, & 4 on file with Application 5629) and CVP (as shown on map 214-208-12581 on file with Application 5626) would be temporarily added to the place of use of Permits 1267 and 2492. Municipal, industrial, salinity control, fish and wildlife enhancement, water quality control, and stockwatering would be temporarily added as purposes of use under Permits 1267 and 2492.

**2.3 Points of Rediversion under the Proposed Transfer** The proposed transfer would temporarily add the Oroville Dam and the Clifton Court Forebay as points of rediversion for Permits 1267 and 2492.

### **3.0 PUBLIC NOTICE AND COMMENT TO THE PROPOSED TRANSFER**

Public notice of the petition for temporary change (dated October 10, 2002) was provided via regular mail to interested parties and by publication in the Chico Enterprise – Record and the Oroville Mercury – Register on October 21, 2002. The Division did not receive any comments to the public notice.

### **4.0 AVAILABILITY OF WATER FOR TRANSFER**

The water proposed for transfer was stored under provisions of Permits 1267 and 2492. In the absence of this transfer, the subject 10,000 af of water would remain in storage within Little Grass Valley Reservoir and Sly Creek Reservoir for future marketing to other buyers or use by OWID.

In light of the above, I find in accordance with Water Code section 1727(b)(1) that the proposed transfer would not injure any legal user of the water and that the proposed temporary change of water rights involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change. However, approval of the petition will include conditions to ensure that no legal user of water is injured during future refill of Little Grass Valley Reservoir and Sly Creek Reservoir resulting from this transfer.

### **5.0 ENVIRONMENTAL CONSIDERATIONS**

In accordance with Water Code section 1729, temporary changes involving transfer of water are exempt from the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq). However, the SWRCB must consider potential impacts on fish, wildlife and other instream beneficial uses in accordance with Water Code section 1727(b)(2).

The proposed temporary change in place of use, purpose of use, and point of rediversion involves water that was previously stored. However, this order also requires OWID to comply with SWRCB Decision 1641 (D-1641), Tables 1, 2, and 3, to ensure that no unreasonable effects on fish, wildlife or other instream beneficial uses are caused by the addition of the Clifton Court Forebay as a point of rediversion.

In light of the above, I find that in accordance with Water Code section 1727(b)(2) that the proposed transfer would have no unreasonable effects on fish, wildlife or other instream beneficial uses.



## ORDER

**NOW, THEREFORE, IT IS ORDERED** that the petition filed for temporary change in the places of use, purpose of use, and points of redirection under Oroville-Wyandotte Irrigation District's Permitted Applications 1651 and 2778 for the transfer of up to 10,000 af of water is approved.

All existing terms and conditions of the subject permit remain in effect, except as temporarily amended by the following provisions:

1. The transfer/exchange is limited to the period commencing on the date of this Order and continuing for one year.
2. The place of use of OWID's Permitted Applications 1651 and 2778 is temporarily expanded to include the service areas of the SWP (as shown on maps 1878-1, 2, 3, & 4 on file with Application 5629) and CVP (as shown on map 214-208-12581 on file with Application 5626).
3. The Oroville Dam and the Clifton Court Forebay are temporarily added as points of redirection to OWID's Permitted Applications 1651 and 2778. Redirection of water at the Clifton Court Forebay pursuant to this order shall comply with the standards set forth in Table 1, 2, and 3 of Water Right Decision 1641 and the current Water Level Response Plan as modified by SWRCB Order WR 2002-0003.
4. The refill agreement between OWID and DWR (draft dated November 7, 2002) shall govern the conditions under which refill occurs for the transferred storage allowed in this order.
5. Within 60 days of the completion of the transfer/exchange, but no later than March 1, 2004, the permittee shall provide the Chief of the Division of Water Rights a report describing the use of the water transferred pursuant to this Order and refill of storage resulting from this Order.

The report shall include the following information:

1. General locations where the transferred water was used;
2. The monthly amounts of water each location received;
3. The average application rate of water in the locations;
4. The daily release rates of the transferred water from Little Grass Valley Reservoir, Sly Creek Reservoir, and Ponderosa Reservoir; and
5. The daily values of the 2002 Transfer Water Balance, as defined in the refill agreement between OWID and DWR (draft dated November 7, 2002).

Should the amount of the 2002 Transfer Water Balance exceed zero at the time of this report, the permittee shall submit subsequent annual reports until the 2002 Water Transfer Balance reaches zero. These reports shall contain the daily values of the 2002 Transfer Water Balance.

6. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB 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 SWRCB also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

7. This order does not authorize any act which results in the taking of a threatened or endangered species or any act which 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 temporary transfer, the permittee shall obtain authorization for an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this order.
  
8. I reserve jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

*ORIGINAL SIGNED BY  
DAVID R. BERINGER FOR*

*Harry M. Schueller  
Chief Deputy Director*

Dated: November 26, 2002