

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 Change under Water Code section 1725, et seq. By letter of April 15, 2002, Yuba County Water Agency (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 Department of Water Resources (DWR). Of this total, up to 5,000 af of water is intended for use by CCWD and 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. Additionally, YCWA has requested that the proposed place of use water include the Yuba River (downstream of Daguerre Dam) thence the Feather River thence the Sacramento River to the Delta for the purpose of preservation and enhancement of fish and wildlife resources in accordance with the provisions of Water Code section 1707. If approved, the temporary change may be effective for up to one year from the date of approval.

1.1 Description of the Transfer YCWA proposes to transfer up to 162,050 af of water under Permit 15026 (Application 5632) to CCWD and DWR. To facilitate the transfer, YCWA proposes to release up to 162,050 af of water currently stored in the New Bullards Bar Reservoir between June 1 and October 31, 2002. Water would be released from New Bullards Bar Reservoir into Englebright Reservoir (via the Colgate Power House) thence the Yuba River (through Daguerre

Point Dam) to the Feather River thence the Sacramento River to the Delta. Water reaching the Delta would be available for use by DWR to provide salinity and water quality controls within the Delta or may be exported to users within the SWP or CVP service areas (including CCWD) or to long-term groundwater storage.

YCWA's petition also indicated that though the entire transfer total may consist of water previously-stored in New Bullards Bar Reservoir, up to 85,000 af may consist of surface water made available through an increase in groundwater pumping (groundwater substitution). YCWA's petition included a plan titled *Groundwater Monitoring and Reporting Program* (Groundwater Monitoring Plan) intended to assess the effects of the transfer on Groundwater and to provide reasonable assurance that the water pumped and accounted for as part of this transfer is in lieu of surface water.

YCWA's petition included an agreement titled *New Bullards Bar Reservoir Refilling Conditions And Procedures For Water Transfer From Yuba To The Department* (Refill Agreement). The Refill agreement is intended to ensure that future refill of water transferred from storage (i.e., the transfer total minus the total excess groundwater pumped) in New Bullards Bar Reservoir does not adversely impact the SWP or CVP. These procedures provide for an accounting of refill of New Bullards Bar Reservoir resulting from the proposed transfer during balanced conditions in the Delta. Under these procedures, any refill occurring during balanced conditions in the Delta is subject to repayment to the CVP and SWP during subsequent balanced conditions.

2.0 BACKGROUND

2.1 Substance of YCWA's Permit Permit 15026 (Application 5632) authorizes the diversion to storage of up to 490,000 AF of water per annum from the North Fork Yuba River between October 1 and June 30. Permit 15026 also authorizes the direct diversion from the North Fork Yuba and Yuba rivers of up to 1593 cubic feet per second (cfs) between April 1 and July 1. The points of diversion to storage and rediversion for Permit 15026 are located at the New Bullards Bar Dam and the Daguerre Dam. The water is used for irrigation, industrial, recreational, fish mitigation and enhancement, and domestic purposes within the authorized place of use as shown on map EJ-05-08-R3 on file with the SWRCB under Application 5632.

Based on evidentiary hearings held in 1992 and 2000 regarding fishery resources and water right issues of the Lower Yuba River, the SWRCB adopted Decision 1644 (D-1644) which includes instream flow requirements and provisions to reduce water temperature impacts for the protection of fish and other public trust resources. As conditioned by D-1644, Permit 15026 contains flow requirements measured at the Marysville Gage (located about 6 miles upstream of the confluence of the Feather and Yuba rivers) and the Smartville Gage (located just below the Englebright 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 Permit 15026. Municipal, salinity control, and water quality control would be temporarily added as additional purposes of use under Permit 15026.

2.3 Points of Rediversion under the Proposed Transfer The proposed temporary change would add the Clifton Court Forebay, Tracy Pumping Plant, the Contra Costa Canal Intake at Rock Slough, the Contra Costa Water District Los Vaqueros Project Intake at Old River, and the Contra Costa Water District Mallard Slough Intake as points of rediversion under Permit 15026.

3.0 AVAILABILITY OF WATER FOR TRANSFER

The water proposed for transfer was stored under provisions of Permit 15026. In the absence of this transfer, up to 162,050 af of the subject water would remain in storage within the New Bullards Bar Reservoir. To the extent that groundwater pumping is increased to make available surface water for transfer, up to 85,000 af of groundwater water would remain in the Yuba groundwater basin (with a corresponding increase in remaining surface water storage). The maximum amount of water authorized for transfer under this order is 162,050 af. This order includes terms and conditions to ensure that no legal users of water are injured by the proposed temporary change due to the following factors:

- a. Potential lowering of water levels in southern Delta Channels associated with the addition of the Clifton Court Forebay and the Tracy Pumping Plant as points of rediversion to Permit 15026;
- b. Future refill of New Bullards Bar Reservoir resulting from this temporary change, and
- c. Impacts resulting from increased groundwater pumping resulting from this temporary change.

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 the amount of water that would have been consumptively used or stored in the absence of the temporary change.

4.0 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).

This order requires YCWA to maintain the instream flow requirements and provisions to reduce water temperature impacts required by D-1644 to ensure that no unreasonable effects on fish, wildlife or other instream beneficial uses within the Lower Yuba River. The required instream flows must be maintained in addition to flows released for this transfer. YCWA has agreed to implement a monitoring plan, titled *Monitoring and Evaluation of Yuba River Water Transfers* (Fishery Monitoring Plan). This plan was attached to the California Department of Fish and Game's (DFG) comments on this proposed transfer and its implementation was requested. This plan was prepared specifically for this transfer by YCWA in cooperation with DFG, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service (USFWS), and the California

Sportfishing Protection Alliance (CSPA) to further evaluate the effects of this transfer on fall-run chinook salmon, spring-run chinook salmon, steelhead, and their habitat. YCWA has also agreed to meet ramping rate and pretransfer flow requirements which are more stringent than those contained in D-1644, as requested by DFG.

This order also requires YCWA 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 and the Tracy Pumping plant as points of redirection.

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.

5.0 COMMENTS RECEIVED ON THE PROPOSED TEMPORARY CHANGE

The SWRCB received timely comments regarding the proposed temporary change from the DFG, CSPA, the United States Bureau of Reclamation (USBR), USFWS, and the South Delta Water Agency (SDWA). Additionally, the SWRCB received written response to these comments from YCWA (dated June 10, 2002). The comments and the SWRCB's responses are summarized below:

California Department of Fish and Game

Comment: DFG asserted that the proposed temporary change may have adverse impacts to juvenile steelhead and chinook salmon due to increased instream flows (resulting from transfer water releases) which diverge from the natural hydrograph (i.e., high flows during summer months). DFG also asserted that the proposed increase in groundwater pumping associated with this transfer could contribute to the decline of groundwater levels in the area and result in the dewatering of surface streams and wetland areas and adverse impacts to other legal users of water. Additionally, the Fishery Monitoring Plan was attached to DFG's comments. DFG indicated that the inclusion of the following terms in any order approving this petition would alleviate their concerns:

- 1 The attached detailed monitoring plan [Fishery Monitoring Plan] shall be implemented. This has been developed in consultation with [DFG], the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the California Sportfishing Protection Alliance, and YCWA. The plan shall be implemented in its entirety by YCWA with limited assistance by the state and federal resource agencies. The plan is designed to evaluate the immediate effects on juvenile steelhead emigration and distribution, adult chinook salmon immigration, and Yuba River water temperatures before, during, and after the proposed 2002 transfers. This plan, however, is not designed and is not sufficient to evaluate the long-term effects of water transfers.
2. Based on the current 2002 Dry Water Year classification, the minimum instream flows until the transfer begins shall not be less than 900 [cfs]. Should the water year be reclassified to a wetter water year (i.e., Below Normal), pretransfer flows shall not be less than 1,000 cfs or the

minimum flow, which ever is greater. Additionally, any change in flows shall be in a gradual manner, and shall not exceed 200 cfs per day total. The increase shall be accomplished in four evenly spaced increments of 50 cfs (within YCWA operational ability).

3. Initiation of a program to evaluate impacts of groundwater extraction from subterranean flows of surface streams and wetlands within the Yuba subbasin. This program shall be developed through coordination and consultation with the resource agencies and other appropriate parties. This item shall be implemented before any future water transfers.

SWRCB Response: In its response letter, YCWA agreed to the inclusion of DFG's Terms 1 and 2, above. This order is conditioned accordingly. With regard to DFG's Term 3, Water Code sections 1732 and 1745.10(b) require the water supplier from whose service area the water is to be transferred (if a groundwater management plan has not been adopted pursuant to state law) to determine that groundwater use (in lieu of surface water) will not create or contribute to long-term overdraft in the affected groundwater basin. YCWA has submitted a hydrogeologic analysis of the groundwater substitution portion of the proposed temporary change, titled *Analysis of the Groundwater Substitution Portion of the Yuba County Water Agency – CALFED Environmental Water Account/ Department of Water Resources 2002 Transfer*. This analysis concludes that the proposed groundwater substitution plan "will not have any significant negative unmitigated impacts on the groundwater resources of Yuba County or on the residents and groundwater users of Yuba County or surrounding areas." Additionally, this order requires YCWA to adhere to the Groundwater Monitoring Plan submitted with this petition.

California Sportfishing Protection Alliance

Comment: CSPA recommended that the SWRCB deny the petition for temporary based on the following assertions:

- a. The proposed temporary change will result in increased flows and decreased temperatures in the Yuba, Feather, and Sacramento Rivers during summer months when flows are typically lower and temperatures higher. Upon completion of the proposed transfer, flows and temperatures will return to seasonal norms resulting in adverse impacts to juvenile steelhead, chinook salmon, and their food sources.
- b. The proposed groundwater substitution plan will result in a lowering of groundwater levels within surrounding areas. The exact amount of groundwater level reduction has not been defined and therefore the SWRCB does not have the required information to make the findings required by Water Code section 1745.10 (a) & (b).
- c. This proposed transfer of water from YCWA to EWA is the third such transfer by the same parties. CSPA asserted that this is a misuse of the temporary transfer provisions of the Water Code to avoid compliance with the California Environmental Quality Act (CEQA).

CSPA stated that the inclusion of the following terms in any order approving this petition would alleviate their concerns:

- 1 YCWA shall complete or have completed all studies previously agreed upon with the various State and federal agencies and CSPA and as per the agreed upon study plan. These are a suite

of four studies including Rotary Fish Trap operation and evaluation, Upstream Spring run Chinook salmon movement, Temperature Monitoring and Snorkel Surveys relating to fish distribution and movement. These studies are contained in a report and study plan agreed upon by the various agencies (including YCWA) and NGO's to be performed as conditions of the proposed 2002 transfers.

2. YCWA under the auspices of the Board shall have conducted Comprehensive Groundwater Substitution studies to identify and quantify the magnitude, extent and duration of impacts resulting from or associated with groundwater substitution aspects of this and prior transfers approved by the Board. Long term impacts of water development and transfers should be included in this comprehensive approach. In addition, the impacts of Groundwater Substitution programs proposed in adjacent and/or related groundwater basins should be included. These studies should be conducted by an independent agency or group to avoid conflict of interest and concerns with quality and objectivity of data. These data are required to make the determinations under Water Code 1745.10. No groundwater may be included as part of this transfer until such studies are made.
3. Temperature requirements as established and required under the Sacramento River Basin Plan (cold water spawning and rearing) should be made conditions of the proposed transfer. Temperature criteria shall be measured at the mouth of the Yuba River.
4. Transfers shall at no time cause flow fluctuations greater than 300 cfs within a 7 day period within 30 days prior to or after the transfer to minimize the adverse impacts to fish as a result of stranding and to minimize impacts to benthic macroinvertebrates. Fluctuations shall be measured at the Marysville gage.

SWRCB Response: See the SWRCB Response to DFG's comments (above) regarding CSPA's Terms 1 and 2. With regard to CSPA's Terms 3 and 4, Water Code section 1727(e) states that the SWRCB shall not deny or place conditions on a temporary change to mitigate impacts that are not caused by the change. Therefore, only adverse environmental impacts due specifically to this temporary change may be addressed by this order. Since this order requires YCWA to adhere to the provisions to reduce water temperature impacts required by D-1644 (established to ensure that no unreasonable effects on fish, wildlife or other instream beneficial uses within the Lower Yuba River), to implement the Fishery Monitoring Plan, and adhere to conditions required by DFG regarding ramping rates and pretransfer flows, this temporary change should not have adverse temperature impacts or impacts due to ramping rates.

United States Bureau of Reclamation

Comment: USBR stated that the Monitoring Plan and Refill Agreement between DWR and YCWA will ensure that the portion of the proposed transfer intended for DWR (157,050 af) will not adversely affect the water rights or operations of the CVP. However, USBR asserted that the Refill Agreement did not include the 5,000 af of water intended for CCWD. USBR requested that the SWRCB include the following four conditions in any order approving this temporary change:

- Release of water for transfer [to CCWD] only during balanced conditions in the Delta.
2. Release of stored water transferred [to CCWD] does not adversely impact the CVP.

- 3 Implementation of procedures to account for refill from the proposed transfer [to CCWD] during balanced conditions in the Delta and that such refill be subject to repayment to the CVP during subsequent periods of balanced conditions.
4. Implementation of procedures to assure that any ground water pumped and accounted as being transferred in lieu of surface water deliveries and delivered to CCWD was in fact pumped and transferred in lieu of surface water deliveries.

SWRCB Response: YCWA's response included a copy of a March 4, 2002 letter it sent to DWR stating that the water intended for transfer to CCWD would be accounted for under the same terms and conditions as water transferred from storage to DWR. Additionally, YCWA's response stated that the 5,000 af of water intended for transfer to CCWD would consist of water previously stored (i.e., not part of the groundwater substitution program) and will be delivered between June 15, and July 31, 2002. Accordingly, this order requires YCWA to account for the refill of the 5,000 af of water intended for transfer to CCWD in accordance with the Refill Agreement. Since CCWD's water has been specifically designated by YCWA as coming from transferred storage, USBR's Term 4 is not applicable.

United States Fish and Wildlife Service

Comment: USFWS stated it supported the proposed temporary change.

SWRCB Response: Comment noted.

South Delta Water Agency

Comment: SDWA opposed the proposed temporary change based on the following assertions:

- a. The portion of the proposed temporary change involving the transfer of water to EWA is part of a four-year program involving the transfer of about one million af of water. As such, this specific temporary change is one of a series of one-time transfers intended to avoid the requirements of CEQA.
- b. SDWA asserted that refill of water transferred pursuant to this petition may occur at a time when San Joaquin River flows are not sufficient to meet the needs of riparian and senior appropriative water right holders within the Delta.
- c. SDWA asserted that Water Code sections 1392 and 1629 preclude profit on the transfer of rights under a permit or license to divert water. The SWRCB should determine if YCWA is selling the water proposed for transfer under this temporary change and if so, deny the petition.
- d. SDWA asserted that Water Code section 1725 should be interpreted to mean that no net increase in consumptive use should be allowed to occur as a result of a temporary change. Accordingly, since this transfer will result in a net increase in consumptive use by YCWA, the petition should be denied. Additionally, SDWA asserted that YCWA has not provided sufficient analysis to determine that the proposed temporary change meets the requirements of Water Code section 1727(b)(2) and should be denied on that basis as well.

- e. The use of water by EWA to mitigate the effects of the export projects on fish and wildlife requires repayment by the contractors under Water Code section 11912. SDWA asserted that without repayment, the purchase price of the transfer may represent an illegal gift of public funds subject to set aside. Additionally, SDWA asserted that the pumping of the transfer water by DWR should be done so under the limitations for joint points of diversion required by SWRCB Decision 1641 (D-1641).

SWRCB Response:

- a. This temporary change is effective from the date of this order through October 31, 2002, and is therefore within the provisions of Water Code section 1728.
- b. SWRCB Order 89-8 found that riparian water right holders within the southern Delta do not hold rights to Sacramento River water. Any legal user of water within the Delta that notes injury attributable to the refill of storage transferred pursuant to this order is advised to file a complaint (included specific facts supporting the allegation) with the Division of Water Rights.
- c. SDWA has raised this argument in comments regarding previous petitions for temporary change. The SWRCB's response is summarized in Order WR 2000-16-DWR.
- d. SDWA has raised this argument in comments regarding previous petitions for temporary change. The SWRCB's response is summarized in Order WR 2001-25-DWR.
- e. Water Code section 1727 requires the SWRCB to approve temporary changes based on an evaluation of evidence regarding injury to other legal users of the water and impacts to fish, wildlife and other instream beneficial uses. Issues regarding financial transactions and disbursement of public funds are not relevant to this action. With regard to joint point of diversion operations, this order prohibits rediversion of water at either Clifton Court Forebay or Tracy Pumping Plant without an approved water level response plan in place in accordance with D-1641.

6.0 SWRCB'S DELEGATION OF AUTHORITY

On May 16, 2002, the SWRCB adopted Resolution 2002-0106, granting the authority to act on petitions for temporary change to the Chief of the Division of Water Rights, except where the SWRCB conducts a hearing to accept additional evidence.

7.0 CONCLUSIONS

The SWRCB has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I conclude that, based on the available evidence:

- 1. The proposed temporary change will not injure any legal user of the water.
- 2. The proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses.
- 3. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use, purpose of use, and point of rediversion under Yuba County Water Agency's permitted Application 5632 for the transfer of up to 162,050 af of water is approved.

All existing terms and conditions of the subject permit including those ordered by SWRCB Decision 1644 (or as may be subsequently amended by further order of the SWRCB) 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 continues through October 31, 2002.
2. The place of use of YCWA's Permitted Application 5632 is temporarily changed as follows:

The authorized place of use is 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 Clifton Court Forebay, the Tracy Pumping Plant, the Contra Costa Canal Intake at Rock Slough, the Contra Costa Water District Los Vaqueros Project Intake at Old River, and the Contra Costa Water District Mallard Slough Intake are temporarily added as points of rediversion to YCWA's Permitted Application 5632. Rediversion of water at the Clifton Court Forebay and the Tracy Pumping Plant pursuant to this order shall comply with the standards set forth in Table 1, 2, and 3 of Water Right Decision 1641. Additionally, rediversion of water at the Clifton Court Forebay and the Tracy Pumping Plant pursuant to this order shall comply with the current Water Level Response Plan as modified by SWRCB Order WR 2002-0003.
4. Municipal, salinity control, and water quality are temporarily added as purposes of use under YCWA's Permitted Application 5632.
5. During the period of actual transfer of water approved under this order, YCWA shall specifically comply with the following requirements ordered by D-1644 (or as may be subsequently amended by further order of the SWRCB):
 - a. Maintain minimum instream flows at the USGS gaging installations at Marysville and Smartville as specified in D-1644, Term 1 for YCWA. The required instream flows must be maintained in addition to flows released for this transfer.
 - b. Minimize water temperature impacts on anadromous fish and other public trust resources as specified in D-1644, Term 2 for YCWA.
6. Permittee shall implement the *Monitoring and Evaluation of Yuba River Water Transfers* plan (dated June 3, 2002) submitted by DFG with its comments. This plan may be modified by YCWA only with the prior consent of DFG. Additionally, the minimum instream flow

(measured at the Marysville Gage) prior to the proposed change shall be 900 cfs. Any change in flows due to the transfer shall be in a gradual manner, and shall not exceed 200 cfs per day total. The increase shall be accomplished in four evenly spaced increments of 50 cfs (within YCWA operational ability).

7. The refill criteria delineated in *New Bullards Bar Reservoir Refilling Conditions And Procedures For Water Transfer From Yuba To The Department* (Refill Agreement) shall govern the conditions under which refill occurs for the transferred storage allowed in this order. These criteria shall specifically apply to the 5,000 af of water to be transferred to the Contra Costa Water District.
8. Permittee shall prepare a monthly accounting of the actual groundwater pumped from the North and South Yuba Groundwater Basins in excess of that which would have been pumped in the absence of the transfer. Permittee shall implement the *Groundwater Monitoring and Reporting Program* (Groundwater Monitoring Plan) submitted with the petition. Permittee shall provide to the Chief of the Division of Water Rights, a map of the recent (circa spring 2002) ground water levels in the North and South Yuba Groundwater Basins. An additional map shall be developed and submitted by June 1 of each year following the transfer defining the spring groundwater levels in the North and South Yuba Groundwater Basins until such time as groundwater levels correspond to the pre-transfer groundwater levels.
9. By June 1, 2003, petitioner 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:
 - a. General locations where the transferred water was used or stored;
 - b. The daily release rates of the transferred water from New Bullards Bar Reservoir;
 - c. The average daily streamflow measured at the USGS gaging stations located on the Yuba River at Marysville and Smartville;
 - d. The hourly temperature readings at the Smartville Gage, Daguerre Point Dam, and the Marysville Gage as required of YCWA in Term 2(d) of D-1644;
 - e. The daily values of the Transfer Amount Account, as defined in the Refill Agreement; and
 - f. The monthly amounts of groundwater pumped to meet the needs of users within the YCWA service area in excess of that which would have been pumped in the absence of this transfer.

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

10. 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.

1. 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 prior to commencing transfer of water or water rights. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this order.

12. 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.



Edward C. Anton, Chief
Division of Water Rights

Dated: **JUN 17 2002**