



Terry Tamminen
*Secretary for
Environmental
Protection*

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>



Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 150,000 ACRE-FEET OF WATER
FROM THE YUBA COUNTY WATER AGENCY
TO THE DEPARTMENT OF WATER RESOURCES
AND CONTRA COSTA WATER DISTRICT
UNDER PERMIT 15026 (APPLICATION 5632)**

Notice is hereby given that on January 20, 2004

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. Yuba County Water Agency's (YCWA) petition requests the transfer of up to 150,000 acre-feet (af) of water to the Contra Costa Water District (CCWD) and the Department of Water Resources (DWR). Of this total, up to 15,000 af of water is intended for use by CCWD and up to 135,000 af of water is intended for use by DWR under its portion of the CALFED Environmental Water Account (EWA) and its 2004 Dry Year Water Purchase Program. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year.

DESCRIPTION OF THE TRANSFER

YCWA proposes to transfer up to 150,000 af of water under Permit 15026 (Application 5632) to CCWD and DWR. To facilitate the transfer, YCWA proposes to release up to 150,000 af of water currently stored in the New Bullards Bar Reservoir (between June 1 and October 31, 2004). 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 either use by DWR to provide salinity and water quality controls within the Delta or export to users within the State Water Project (SWP) or Central Valley Project (CVP) service areas (including CCWD) or to long-term groundwater storage. YCWA indicated that the maximum additional release rate from Englebright Reservoir for this transfer is 1,500 cfs and that the required minimum instream flows prescribed in SWRCB Decision 1644 (D-1644), measured at the USGS Marysville Gage (Station No. 11421000), will not be counted as transferred water.

YCWA's petition indicated that up to 85,000 af of the 150,000 af transfer total may consist of surface water made available through an increase in groundwater pumping (groundwater substitution). The YCWA contractors participating in the proposed groundwater substitution plan are Brophy Water District, Browns Valley Irrigation District, Cordua Irrigation District, Dry Creek Mutual Water Company, Hallwood Irrigation Company, Ramirez Water District, and South Yuba Water District. YCWA has submitted a report titled "*Analysis of the Groundwater Substitution Portion of the Yuba County Water Agency-CALFED Environmental Water Account/Department of Water Resources 2004 Transfer*" indicating the impacts of this groundwater substitution plan.

The remaining portion of the transfer total consists of water previously stored in New Bullards Bar Reservoir. YCWA's petition included an agreement with DWR 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.

PROPOSED TEMPORARY CHANGE

The proposed temporary change would temporarily 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. 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 (the entirety of CCWD is located within the CVP). Municipal, salinity control and water quality control would be temporarily added as additional purposes of use under Permit 15026.

PETITIONER'S WATER RIGHTS

Permit 15026 authorizes the storage of 490,000 af of water per year from the North Yuba River between October 1 and June 30. Permit 15026 also authorizes the direct diversion of up to 1593 cfs from the North Yuba and Yuba Rivers between April 1 and July 1. The authorized points of diversion/rediversion under Permit 15026 are located at New Bullards Bar Dam and Daguerre Dam. The authorized purposes of use under Permit 15026 are irrigation, industrial, recreation, fish mitigation and enhancement and domestic purposes within the place of use shown on map EJ-05-08-R3 (on file with the SWRCB under Application 5632).

ENVIRONMENTAL CONSIDERATIONS

Temporary changes petitioned pursuant to Water Code section 1725 are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the SWRCB must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses. YCWA has submitted a study titled “*Environmental Analysis: Proposed Temporary Transfer of Water from Yuba County Water Agency to California Department of Water Resources and Contra Costa Water District, Year 2004*” in support of its petition. This document is available for review in the office of the SWRCB’s Division of Water Rights, at the address listed on the fourth page of this notice.

SWRCB'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the SWRCB is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary change:

1. Involves only water that would otherwise have been either consumptively used or stored by permittee or licensee or was conserved pursuant to Water Code section 1011;
2. Would not injure any legal user of the water;
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses; and
4. Any increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) is performed in compliance with Water Code sections 1745.10 and 1745.11.

If the SWRCB cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et seq., then the SWRCB may deny the petition or schedule and notice a hearing regarding the proposed temporary change.

OPPORTUNITY FOR COMMENTS

Pursuant to the requirements outlined above, the SWRCB is seeking information to assist in the evaluation of the proposed temporary change of water rights under the transfer. Any person may file comments concerning the petitions for temporary change. The comments must address the required findings set forth above. The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of water, or unreasonably affect fish, wildlife, or instream beneficial uses. If the SWRCB determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code section 1727). While such a determination has not been made in this case, commentators should provide sufficient information to support claims of injury or affects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the State Water Resources Control Board, Division of Water Rights website at www.waterrights.ca.gov/application/TempUrg.htm. Potential commentors are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the SWRCB's Division of Water Rights, by **3:00 p.m. on March 8, 2004**. Additionally, **the response must be accompanied by proof of service of a separate copy of the materials on the petitioner**. The petitioner's and the Division's street and mailing addresses are listed on the following page. Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any materials that will be submitted. However, an original copy of all materials must be received for the SWRCB to consider your concerns.

Mailing Address

Division of Water Rights
c/o Greg Wilson
P.O. Box 2000
Sacramento, CA 95812-2000
FAX: (916) 341-5400

Yuba County Water Agency
c/o Paul Bartkiewicz
1011 22th Street
Sacramento, CA 95816-4907
FAX: (916) 446-4018

Street Address

1001 I Street, 14th Floor
Sacramento, CA 95814

Please direct questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner or transferee should be addressed to Paul Bartkiewicz at (916) 446-4254.

Original signed by Jim Kassel for

Victoria A. Whitney, Chief
Division of Water Rights

Dated: January 30, 2004