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Agency Secretary

State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 125,000 ACRE-FEET OF WATER
FROM THE YUBA COUNTY WATER AGENCY
TO THE DEPARTMENT OF WATER RESOURCES
UNDER PERMIT 15026 (APPLICATION 5632)**

Notice is hereby given that on March 7, 2005

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

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. Yuba County Water Agency's (YCWA) petition requests a temporary change to facilitate the transfer of up to 125,000 acre-feet (af) of water under Permit 15026 (Application 5632) to the Department of Water Resources (DWR) for use by the Environmental Water Account (EWA). Additionally, up to 1,200 af of this water is intended for diversion from the San Joaquin River and the Middle River by two private south Delta farming interests. 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 125,000 af of water under Permit 15026 (Application 5632) to DWR. To facilitate the transfer, YCWA proposes to release up to 125,000 af of water currently stored in the New Bullards Bar Reservoir between July 1 and October 31, 2005. Water would be released from New Bullards Bar Reservoir into Englebright Reservoir (via the Colgate Power House) to the Yuba River (through Daguerre Point Dam) thence the Feather River thence the Sacramento River to the Delta. The petition stated that the maximum additional release rate from Englebright Reservoir for this transfer is 1,500 cfs and that the required minimum instream flows contained in SWRCB Revised Decision 1644 (D-1644), measured at the USGS Marysville Gage (Station No. 11421000), will not be counted as transferred water. Water reaching the Delta would be available for either use by DWR to provide salinity and water quality controls within the Delta or to export from the Delta at either the Clifton Court Forebay or the Tracy Pumping Plant for use within the State Water Project (SWP) or Central Valley Project (CVP) service areas.

California Environmental Protection Agency

Additionally, the petition requests that up to 1,200 af of the transfer total be available for diversion from the Middle River and the San Joaquin River for use by two private south Delta farming interests (herein after referred to as Conn and Phelps). Conn and Phelps own land on Upper Roberts Island and irrigate these lands under water right Licenses 13315 (Conn) and Licenses 7609, 13274, and 13444 (Phelps). Licenses 13315, 13274, and 13444 include Standard License Term 91, which requires the curtailment of diversions during periods of time when the SWP and CVP are making upstream reservoir releases to meet Delta water quality objectives (typically July, August and September).

The petition requests that up to 200 af per month be made available for each of these parties during the months of July, August, and September, 2005. The total amount of water diverted under this transfer by these parties would not exceed 1,200 af and the maximum combined rate of diversion for these three locations would not exceed 50 cubic feet per second (cfs). Water would be diverted from the authorized points of diversion under Licenses 13315 (a point on the Middle River near Howard Road) and under Licenses 7609, 13274, and 13444 (two points on the San Joaquin River between about 1 and 1-1/2 miles upstream of Brandt Bridge) for use on a total of about 880 acres.

AVAILABILITY OF WATER FOR TRANSFER

YCWA's petition indicated that up to 85,000 af of the 125,000 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 to the Division a report titled "*Analysis of the Groundwater Substitution Portion of the Yuba County Water Agency-CALFED Environmental Water Account/Department of Water Resources and State Water Contractor 2005 Transfer*" regarding the impacts of this groundwater substitution plan. This document is posted on the Division of Water Rights' website at www.waterrights.ca.gov/application/TempUrg.htm.

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 and Tracy Pumping Plant 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. Municipal, salinity control and water quality control would be temporarily added as additional purposes of use under Permit 15026.

For the purpose of serving up to 1,200 af of water to Conn and Phelps, the proposed temporary change would also temporarily add three points of diversion to Permit 15026 located as follows:

- a) North 1,370 feet and West 2,750 feet from SE corner of projected Section 1, T1S, R5E, MDB&M, being within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 1
- b) North 2,500 feet and East 1,050 feet from the SW Corner of projected Section 16, T1S, R6E, MDB&M, being within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 16
- c) South 285 feet and East 4,182 feet from N $\frac{1}{4}$ corner of projected Section 17, T1S, R6E, MDB&M, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 16, T1S, R6E, MDB&M

Additionally, the place of use would be temporarily expanded to include the following areas:

330 acres located within projected Sections 5, 6, and 7
157 acres located within projected Section 18
232 acres located within projected Sections 8 and 17
162 acres locates within projected Sections 17 and 20

881 acres total, all within T1S, R6E, MDB&M

The above-listed points of diversion and places of use are shown on maps on file under Applications 22638, 18712, 20957, and 21162, and are also shown on a map posted on the Division of Water Rights' website at www.waterrights.ca.gov/application/TempUrg.htm. Diversion of water at the points identified as a, b, and c, above, would be limited to a total of 400 af per month for the months of July, August, and September, 2005 and the maximum combined rate of diversion at points a, b, and c would be 50 cfs.

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 State Water Board 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 for the Proposed Temporary Transfer of Water from the Yuba County Water Agency Yuba River Development Project to the California Department of Water Resources CALFED Environmental Water Account Project/2005 Dry Year Water Purchase Program*" in support of its petition. This document is posted on the Division of Water Rights website at www.waterrights.ca.gov/application/TempUrg.htm.

SWRCB'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the State Water Board 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 State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et. seq., then the State Water Board 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 State Water Board 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 State Water Board 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, commentors 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 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 State Water Board's Division of Water Rights, by **3:00 p.m. on April 25, 2005**. 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 below. 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

James W. Kassel, Chief
Hearings and Special Projects Section

Dated: March 22, 2005