



State Water Resources Control Board



Terry Tamminen
*Secretary for
Environmental
Protection*

Division of Water Rights
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Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 10,000 ACRE FEET OF WATER
FROM THE SOUTH FEATHER WATER AND POWER AGENCY
TO THE ENVIRONMENTAL WATER ACCOUNT
UNDER PERMITS 1267 AND 2492 (APPLICATIONS 1651 AND 2778)**

Notice is hereby given that on September 16, 2004

South Feather Water and Power Agency
c/o Michael Glaze, General Manager
P.O. Box 581
Oroville, California 95965

filed with the State Water Resources Control Board (SWRCB) a Petition for Temporary Change under Water Code section 1725, et seq. South Feather Water and Power Agency's (SFWPA) petition requests the transfer of up to 10,000 acre-feet (af) of water to the Bay-Delta Authority's Environmental Water Account (EWA) for use within the Central Valley Project (CVP) and State Water Project (SWP) service areas or to meet Delta water quality standards. Water acquired by EWA via this transfer will be administered by the Department of Water Resources (DWR). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

DESCRIPTION OF THE TRANSFER

SFWPA proposes to transfer up to 10,000 af of water under Permits 1267 and 2492 (Applications 1651 and 2778) to the EWA. To facilitate the transfer, SFWPA 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 the Ponderosa Reservoir directly into Oroville Reservoir (during November and December of 2004). The water would remain in storage in Oroville Reservoir for use by EWA within the CVP and SWP service areas and wildlife refuges for up to one year from the date of approval of this transfer (likely through early November 2005). 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 for rediversion at the Clifton Court Forebay or the Tracy Pumping Plant.

The proposed transfer would temporarily add the Oroville Dam, the Clifton Court Forebay, and the Tracy Pumping Plant as points of rediversion under Permits 1267 and 2492. The service areas of the SWP (as shown on map attached to the petition) and CVP (as shown on map 214-208-

California Environmental Protection Agency

12581 on file with Application 5626) would be temporarily added to the place of use of Permits 1267 and 2492. 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.

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 SFWPA.

PETITIONER'S WATER RIGHTS

Permit 1267 (Application 1651) 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. The water is used for irrigation and domestic purposes within the authorized place of use, and for recreational purposes within Little Grass Valley Reservoir, Sly Creek Reservoir, Lost Creek Reservoir, and Ponderosa Reservoir.

Permit 2492 (Application 2778) 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, and for recreational purposes within Sly Creek Reservoir, Lost Creek Reservoir, and Ponderosa Reservoir.

Operational studies prepared by PG&E for SFWPA show the effects on SFWPA's reservoirs with the proposed transfer and absent the proposed transfer (assuming normal water year conditions). These studies indicate that the transfer would result in a reduction of about 8,600 af of storage in Little Grass Valley Reservoir and a reduction of about 1,400 af of storage in Sly Creek Reservoir (absent the transfer). SFWPA stated that the transfer will not impact its ability to provide either irrigation or domestic deliveries to its customers.

SFWPA's petition also indicated that it intends to enter into an agreement with DWR to ensure that future refill of water transferred from storage in Little Grass Valley Reservoir and Sly Creek Reservoir does not adversely impact the SWP or CVP.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes under Water Code sections 1725, et seq. are exempt from the requirements of the California Environmental Quality Act (CEQA). (Water Code section 1729) However, the SWRCB must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

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 sufficient to determine that the proposed temporary change(s):

1. Involves only water that would otherwise have been consumptively used or stored by permittee or licensee;
2. Would not injure any other legal user of the water; and
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses.

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 transfer or exchange of water.

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 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 November 1, 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 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

South Feather Water and Power Agency
c/o Michael Glaze, General Manager
P.O. Box 581
Oroville, CA 95965
FAX: (530) 533-9700

Street Address:

1001 I Street, 14th Floor
Sacramento, CA 95814

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner or transferee should be addressed as follows:

SFWPA (petitioner)	Kathryn Petersen (530) 534-1221x202 FAX: (530) 533-9700
EWA (transferee)	Bob Aldridge (916) 653-6176 FAX: (916) 653-9628

Original Signed by James W. Kassel for

Victoria A. Whitney
Division Chief

Date: September 28, 2004