

R15027

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional  
 Temporary Urgency Change Order on  
 Permits 15026, 15027 and 15030,  
 Applications 5632, 15204 and 15574  
 YUBA COUNTY WATER AGENCY,  
 Permittee.

ORDER: WR 89-20  
 SOURCES: North Yuba, Yuba,  
 and Middle Yuba  
 Rivers and Oregon  
 Creek  
 COUNTIES: Yuba, Nevada,  
 Butte and Sutter

ORDER VALIDATING THE ISSUANCE OF A  
 CONDITIONAL TEMPORARY URGENCY CHANGE ORDER  
 TO ADD A POINT OF REDIVERSION  
 ADD A PURPOSE OF USE AND PLACE OF USE  
 TO DELIVER WATER TO THE GRASSLAND WATER DISTRICT

BY THE BOARD:

The Yuba County Water Agency (YCWA) having filed a petition for a temporary urgency change in point of rediversion, purpose of use and place of use pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the Department of Fish and Game (DFG) and the Department of Water Resources (DWR); Board Chairman Maughan having issued a conditional temporary urgency change order on August 23, 1989 subject to review and validation by the Board within 30 days as provided by Water Code Section 1435(d); the Board finds as follows:

**SUBSTANCE OF THE PETITION:**

1. On August 8, 1989, YCWA at the request of DFG, petitioned the Board to authorize temporary changes to Permits 15026, 15027 and 15030, to be effective from the date of the approval through November 30, 1989.

2. The petitioned changes are to: 1) add a point of rediversion at the State Water Project's (SWP) Clifton Court Forebay, the intake to the Harvey O. Banks Pumping Plant (SWP Banks), which is operated by DWR in the Sacramento-San Joaquin Delta, 2) add the Grassland Water District (Grassland) to the place of use and 3) add wildlife enhancement as a purpose of use in the permits.

3. The petition proposes that 39,000 af of water in YCWA's New Bullards Bar Reservoir be released for use at the discretion of DFG<sup>1</sup>. The water would be exchanged with DWR for water presently held in Lake Oroville before September 30, 1989. The DWR exchange water would be released from Lake Oroville in October and November and 30,000 af rediverted through SWP Banks and the California Aqueduct to supply Grassland for fish and wildlife enhancement use.

<sup>1</sup> The water at New Bullard's Bar previously was intended for delivery to the East Bay Municipal Utility District (EBMUD) but was not utilized by EBMUD due to the availability of water from other sources.

**ACTION BY BOARD CHAIRMAN MAUGHAN:**

4. On August 23, 1989, Board Chairman Maughan in accordance with Water Code Section 1435(d) and Board Resolution No. 84-2, issued a conditional temporary urgency change order approving the petition subject to several specified conditions. The Board concurs in and incorporates herein by reference the findings set forth in that order.

**NOTICE OF THE PETITION:**

5. On August 28, 1989, notice of the petition for the temporary urgency change was mailed to interested parties. In accordance with Water Code Section 1438(b)(1), the notice also was published in the September 1, 1989 edition of the Contra Costa Times newspaper, since the temporary point of rediversion is located within Contra Costa County. The final date for submitting objections to the petition was September 14, 1989.

**OBJECTIONS TO PETITION:**

6. The California Sportfishing Protection (CSPA) submitted letters dated August 15, 1989 and September 6, 1989 setting forth written objections to the changes proposed in the petition. The objections set forth in the August 15 letter include: (1) the allegation that the purchase of water by DFG from "third party abusers of the public trust" is an improper way to protect public trust resources since DFG is the trustee

for fish and wildlife and has a legal obligation to protect those resources; (2) the contention that CEQA requires preparation of an environmental impact report before approval of the transfer; (3) the contention that there is a potential for adverse effects on the Delta fishery and water quality due to increased pumping; (4) the contention that there is a potential for adverse effects on the quality and quantity of water in the Grassland Water District and surrounding area; (5) an objection to the absence of a "coordinated plan" for the eventual release of water from Grassland Water District to benefit salmon in the San Joaquin River; and (6) the contention that there is a potential for cumulative adverse effects of the proposed changes in combination with other transfers of water from New Bullards Bar Reservoir.

7. The September 6 letter elaborates on the objections raised in the August 15 letter and emphasizes CSPA's additional allegations or concerns that: (1) no mitigation has been provided for adverse effects on young migratory fish in the Yuba River in the spring of 1990; (2) the petition was approved by Chairman Maughan prior to public notice of the petition being given; (3) the transfer may potentially affect fall-run Chinook salmon spawning in the Yuba and Feather Rivers; and (4) the cumulative impacts of this and other water transfers approved by the Board have not been assessed as required by Section 15065 of Title 14 of the California Code of Regulations.

**RESPONSE TO OBJECTIONS:**

8. The Board's findings with respect to the objections raised by CSPA are set forth below. Due to the overlap of issues raised in CSPA's two letters, some of the following findings apply to two or more of the objections presented by CSPA:

- (1) The fact that the water proposed for use in Grassland Water District is subject to the public trust and that DFG has certain responsibilities with respect to protecting fish and wildlife does not lead to the conclusion that it is improper for DFG to purchase water for the protection or enhancement of fish and wildlife. In certain circumstances, purchasing water may be the most effective means for DFG to protect the public trust resources with which CSPA is concerned.
  
- (2) Simply alleging that the requested temporary changes will have adverse effects on the Delta fishery, Delta water quality, or water quality in Grassland Water District does not establish that such adverse effects will occur. The Delta water quality and pumping restrictions imposed by Decision 1485 will remain in effect with or without the transfer, no information was submitted showing how the transfer will adversely affect water quality in the Grassland Water District area, and DFG has concluded that the net effect of the temporary changes will benefit fishery resources.

(3) Contrary to CSPA's objection, there is no requirement that the petitioner or DFG submit a formal "coordinated plan" for eventual release of the water to benefit salmon in the San Joaquin River. DFG has stated that the water will be released at the time that it concludes additional outflow will be most advantageous to salmon in the San Joaquin River. In view of the fact that flow and fish migration conditions cannot be determined accurately months in advance, and in recognition of the limited time available to DFG in seeking this temporary change, the Board concludes that it would be unrealistic to require a formal "coordinated plan" for release of the water into the San Joaquin River.

(4) With respect to CSPA's objection that the petition was approved by Chairman Maughan before it was formally noticed, the Board notes that, in the case of temporary urgency changes, Water Code Section 1438(a) expressly authorizes approval of a change petition "in advance of the notice required by this section." Water Code Section 1435(b) specifies certain findings which must be made prior to authorizing a temporary urgency change, but the issue of when and whether to hold a hearing is left to the discretion of the Board.

- (5) With respect to the potential effects of the change on fish in the Yuba River, Feather River, and Sacramento-San Joaquin Delta, the Board notes again that DFG has concluded that the changes will have a beneficial net effect on fishery resources. In addition, Chairman Maughan's order approving the changes includes specific minimum flow requirements and other requirements for the protection of fish.
- (6) The other objections raised in CSPA's letters of August 15 and September 8 relate to the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.). CSPA alleges that the temporary changes proposed in the petition could have significant adverse environmental effects on various species of fish and that, therefore, an environmental impact report (EIR) should have been required prior to approval of the transfer.

In determining that an EIR was not necessary, Division staff cited Section 15307 of the State CEQA Guidelines (Section 15307, Title 14, California Code of Regulations). Section 15307 provides a categorical exemption from the CEQA process for actions taken by regulatory agencies for the

maintenance, restoration or enhancement of a natural resource. The section specifically cites "wildlife preservation activities of the State Department of Fish and Game" as an example of the type of activity which falls under the exemption. Based on the information provided by DFG, Division staff concluded that the proposed temporary changes were categorically exempt from CEQA under Section 15307 of the CEQA Guidelines and filed a Notice of Exemption which so stated.

CSPA argues that, notwithstanding the categorical exemption of Section 15307, an EIR is required pursuant to Section 15065(c) of the CEQA Guidelines. Section 15065(c) requires that a project be found to have a significant effect on the environment and that an EIR be prepared in instances in which a project has possible environmental effects which are individually limited but "cumulatively considerable" when viewed in connection with the effects of past projects, other current projects, and probable future projects.

In this instance, information provided by DFG led Division staff to conclude that the project would not have a significant adverse environmental effect and



that the project was categorically exempt from CEQA under Section 15307 of the Guidelines. Based on the information before the Board, we find no reason to change that determination with respect to this particular project. The Board notes, however, that this project and similar water transfers involving increased exports of water from the Delta appear to be increasing. Thus, while this individual project may not have significant environmental effects, at some point we believe that water transfers resulting in increased Delta exports could have significant adverse environmental effects. Therefore, in the future, the Board will not approve projects which involve increased Delta exports in the absence of an adequate environmental assessment which addresses potential fishery impacts and other environmental effects of the proposed project. In the case of temporary urgency changes or temporary permits, the required environmental assessment must comply with CEQA.<sup>2</sup>

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<sup>2</sup> In the case of temporary transfers or exchanges of water or water rights pursuant to Water Code Section 1725 et seq., the Legislature has determined that the formal requirements of CEQA are inapplicable (Water Code Section 1729). Nevertheless, in view of the potential for cumulative impacts in the future, the Board concludes that an assessment of the environmental effects of future proposed temporary transfers of water through the Delta should be provided in order that the Board can make the evaluation and findings with respect to fish and wildlife which are required by Water Code Section 1727.

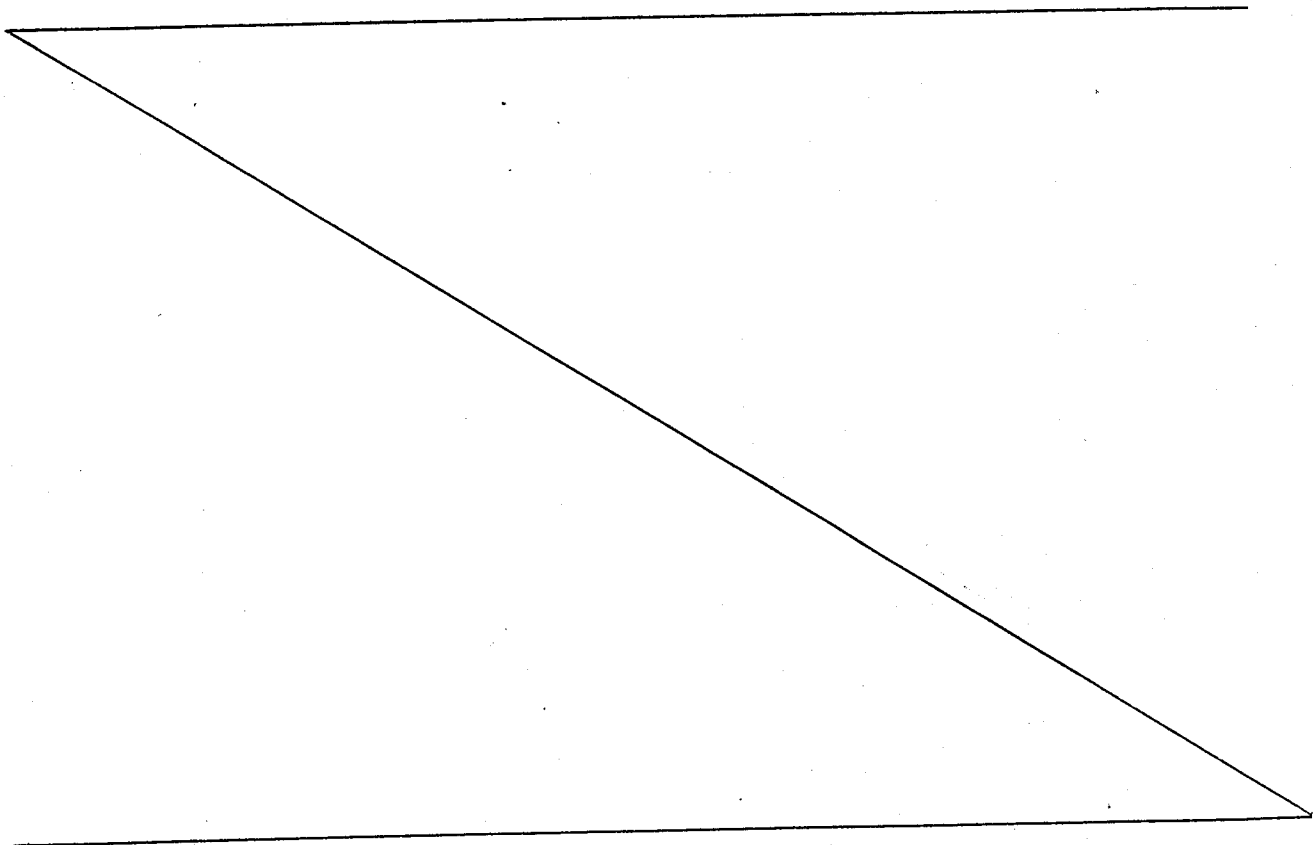
**CONCLUSION:**

9. Based on the findings set forth above, the Board concludes that the conditional temporary urgency change order issued by Chairman Maughan on August 23, 1989 should be validated.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

The issuance of the August 23, 1989 conditional temporary urgency change order by Board Chairman Maughan temporarily authorizing:  
(1) the exchange at Lake Oroville; (2) an additional point of



redirection; (3) a change in the place of use; and (4) an additional purpose of use under Permits 15026, 15027 and 15030, is hereby validated subject to the terms and conditions specified in that order.

#### CERTIFICATION

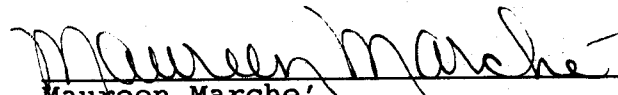
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 21, 1989.

AYE:           W. Don Maughan  
                  Darlene E. Ruiz  
                  Edwin H. Finster  
                  Eliseo M. Samaniego  
                  Danny Walsh

NO:             None

ABSENT:        None

ABSTAIN:       None

  
\_\_\_\_\_  
Maureen Marche  
Administrative Assistant to the Board

SEE ORDER 89-17  
P15027

ORDER APPROVING  
PETITION FOR TEMPORARY CHANGES IN  
POINT OF DIVERSION, PURPOSE OF USE, AND PLACE OF USE  
INVOLVING TEMPORARY TRANSFER

**STATE WATER RESOURCES CONTROL BOARD**THE PAUL R. BONDERSON BUILDING  
901 P STREET  
SACRAMENTO, CA 95814

Mailing Address:

**DIVISION OF WATER RIGHTS**  
P.O. BOX 2000, Sacramento, CA 95810

(916) 324-5685

**NOTICE OF PETITION FOR TEMPORARY CHANGE  
INVOLVING THE INTERBASIN TRANSFER OF WATER  
UNDER YUBA COUNTY WATER AGENCY  
PERMITS 15026, 15027 AND 15030  
(APPLICATIONS 5632, 15204 AND 15574)**

Notice is hereby given that on February 2, 1989,

Yuba County Water Agency (YCWA)  
c/o Paul M. Bartkiewicz  
1330 Twenty-First Street, Suite 200  
Sacramento, CA 95814

filed with the State Water Resources Control Board (Board), a Notice of Proposed Water Transfer and Petition for Temporary Changes to Permits 15026, 15027 and 15030, under Water Code Section 1725 et seq. If approved, the temporary changes would allow the interbasin transfer of up to 66,000 acre-feet (af) of Yuba River Development water to East Bay Municipal Utility District (EBMUD). The transfer would be at a rate of 90 cubic feet per second (cfs) beginning about March 1, 1989 and ending February 28, 1990. The transferred water would be rediverted at the EBMUD Bixler Emergency Pumping Plant (Bixler Plant), on Indian Slough on the southwestern edge of the Sacramento-San Joaquin Delta (Delta). The petition states that the water will be pumped westward through Mokelumne Aqueduct No. 2 directly to EBMUD's service area. See the attached Project Map and "Specifics of the 1989 Petitioned Changes" on Page 3 of this Notice.

**STATUTORY PROVISIONS:**

The Board is authorized to issue a temporary change order allowing transfer or exchange of water or water rights under Chapter 10.5 (Section 1725 et seq) of Part 2 of Division 2 of the Water Code after completing an evaluation sufficient to make specific findings required by Water Code Sections 1727(a)(1) and 1727(a)(2). If the Board cannot satisfy the evaluation requirements within 60 days or cannot make the findings of no injury to other legal users of water and no unreasonable effect on fish, wildlife, or other instream beneficial users of water, a Board hearing on the issues will be scheduled and interested parties will be notified.

A temporary change may be effective for up to one year and shall be effective five days after the order is issued.

The purpose of this notice is to solicit comments from interested parties to assist Board staff in completing the evaluation of the proposed water transfer.

#### STATUS OF TRANSFEROR'S PROJECT:

YCWA's Yuba River Development is composed primarily of New Bullards Bar Dam creating a 961,300 af reservoir with a usable capacity of 727,400 af, located about 29 miles northeast of the City of Marysville, on the North Yuba River.

During 1987, YCWA transferred 83,100 af of Yuba River Development water from storage in New Bullards Bar Reservoir to the Department of Water Resources (DWR) for State Water Project export use. The 1987 transfer allowed an equal amount of water to be held as carryover storage in DWR's Lake Oroville, for use in 1988, if it also proved to be a dry water year.

The 1987 transfer was completed in about 40 days at rates up to 1100 cfs, with no reported injury to any legal user of water or any unreasonable effect on fish, wildlife, or other instream beneficial uses by reason of the transfer.

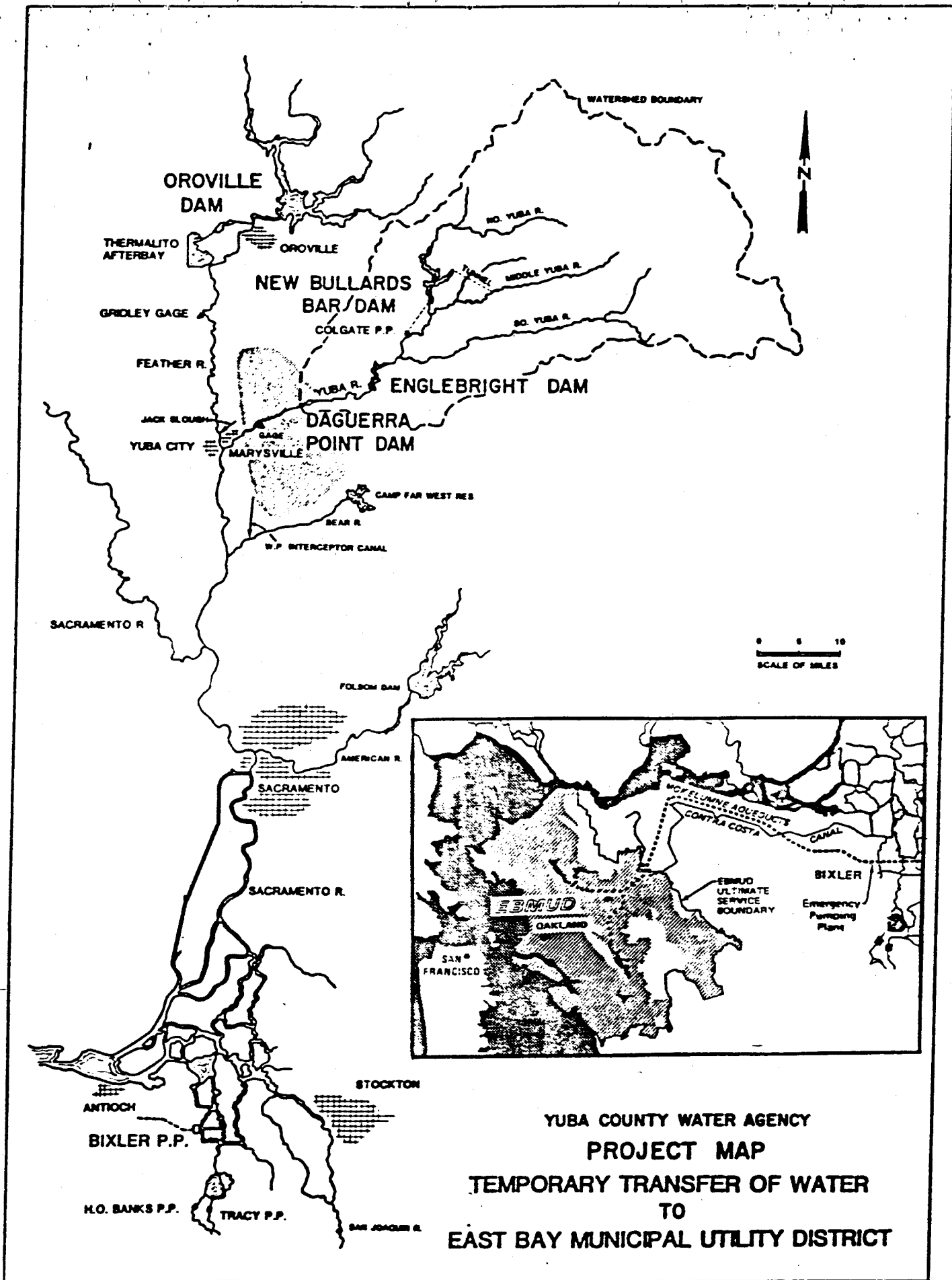
During 1988, YCWA transferred 122,000 af of Yuba River Development water to DWR for State Water Project use to meet Delta outflow requirements. The purpose of the 1988 transfer was to increase carryover storage in Lake Oroville for 1989. It was completed in about 90 days with transfer rates up to 750 cfs, with no reported injury to any legal user of water or any unreasonable effect on fish, wildlife, or other instream beneficial users of water by reason of the 1988 transfer.

#### STATUS OF TRANSFEREE'S PROJECT:

In 1977, during the last drought, EBMUD pumped Delta water to the west to its service area through Mokelumne River Aqueduct No. 2 using an emergency pumping plant located at Middle River in the Delta. The District states that trihalomethane formation and taste and odor impacts on users were very significant and long lasting because EBMUD's water treatment facilities were not designed to treat Delta water.

EBMUD'S Mokelumne Aqueducts Nos. 1, 2 and 3 extend from Pardee Reservoir, (on the Mokelumne River, in the Sierra Nevada foothills in Amador and Calaveras Counties) in a southwesterly direction crossing several Delta islands to the southwestern rim of the Delta (See attached Project Map). After crossing Indian Slough (aka Werner Cut) near Bixler, the aqueducts arc in a northwesterly direction toward the cities of Antioch and Pittsburg, then extend to the following EBMUD terminal reservoirs in Contra Costa and Alameda Counties: Briones, San Pablo, Lafayette, Upper San Leandro and Chabot.

Following the 1977 drought, EDMUD made plans for a permanent emergency pumping plant at its Bixler maintenance yard located between the Atchison Topeka and Santa Fe Railroad tracks and the Mokelumne Aqueducts on the western edge of the Delta. The emergency pumping facilities are located there so that, in the event of aqueduct outages caused by flooding of a Delta island, earthquake or other emergency (in this case a drought), the facilities will be capable of drawing water from Indian Slough via a 700-foot long intake pipeline (complete with fish screens) and pumping it into the Mokelumne Aqueduct.



**YUBA COUNTY WATER AGENCY**  
**PROJECT MAP**  
**TEMPORARY TRANSFER OF WATER**  
**TO**  
**EAST BAY MUNICIPAL UTILITY DISTRICT**

On March 22, 1988, at a public hearing, EBMUD's Board of Directors declared that a water shortage emergency condition existed within the District and implemented an emergency water conservation program consisting of:

- 1) water use allocations (a form of rationing),
- 2) increasing rate schedules, and
- 3) a variety of other drought-related measures.

In May 1988, EBMUD sought to augment its water supply through temporary urgency changes to several of the U.S. Bureau of Reclamation (Bureau) permits. The petitioned changes would have allowed EBMUD to use the Bixler Plant to pump Central Valley Project (CVP) water east to Camanche Reservoir as proposed, because the pumping head in the aqueduct is nearly the same east or west. Objections to the Bureau Bixler petition centered primarily on the introduction of Delta water into Camanche Reservoir and the Mokelumne River system.

At the July 14, 1988 Board hearing on the Bureau Bixler petition, the Department of Fish and Game and others presented testimony indicating they objected to pumping the water east and believed that the water (if needed later) should be pumped west where it would not injure other legal users of water and would not unreasonably affect fish, wildlife, or other instream beneficial uses. On August 18, 1988, Board Order 88-15 denied the Bureau Bixler petition.

#### SPECIFICS OF THE 1989 PETITIONED CHANGES:

YCWA has requested the addition of a temporary point of diversion and rediversion, and a change in place and purpose of use under Permits 15026, 15027, and 15030. These changes will allow transfer of up to 66,000 af of Yuba River Development stored water (or water which would have been stored) to EBMUD at the entrance to the Bixler Plant. Additional reservoir releases will be made by YCWA as required to satisfy "carriage water" requirements in the Delta. The Bixler Plant entrance is located within the NW 1/4 of NE 1/4 of Section 14, T1N, R3E, MDB&M as shown on EBMUD maps on file with the Board. The maximum rate of diversion at Bixler under the petition would be 90 cfs (about 180 af/day) from March 1, 1989 to February 28, 1990. The temporary place of use would be EBMUD'S existing place of use as shown on maps on file with the Board. The temporary purpose of use would be for municipal water supply.

EBMUD's Bixler pumping plant is now expected to be complete and ready to start pumping water west about March 15, 1989, if 1989 proves to be a dry year.

#### ENVIRONMENTAL INFORMATION:

The proposed temporary changes are exempt from the requirements of the California Environmental Quality Act [Division 13 (Section 21000 et seq) of the Public Resources Code] in accordance with Section 1729 of the Water Code.



RELATIVE TO COMMENTS OR CONCERNS:

Written comments related to this petition will be considered by the Board during its evaluation of the proposed water transfer if received by the Board by 4:00 p.m. on February 23, 1989. Comments must be hand delivered or mailed to:

Division of Water Rights	and	East Bay Municipal Utility District
P. O. Box 2000		c/o Jon Myers, Mgr. of Resource Plng.
Sacramento, CA 95810		2127 Adeline Street
Attention: Petition Unit		Oakland, CA 94623

A copy of written comments must also be sent to YCWA at the following address:

Yuba County Water Agency (YCWA)  
c/o Paul M. Bartkiewicz  
1330 Twenty-First Street, Suite 200  
Sacramento, CA 95814

Requests for copies of the YCWA "Notice of Proposed Water Transfer and Petition for Temporary Change" filed with the Board may also be addressed to YCWA. Interested parties are encouraged to discuss concerns about this transfer with the contact persons identified in the YCWA notice prior to submitting written comments.

Questions about this notice may be directed to Dave Cornelius at (916) 324-5685.

WALTER G. PETTIT, CHIEF  
Division of Water Rights

Dated: FEB 9 1989

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 15204

PERMIT 15027

LICENSE \_\_\_\_\_

ORDER TO ADD A POINT OF DIVERSION  
AND REDIVERSION, AND AMENDING THE PERMIT

WHEREAS:

1. Permit 15027 was issued to Yuba County Water Agency on March 28, 1966 pursuant to Application 15204.
2. A petition to add a point of diversion and rediversion on Yuba River has been filed with the State Water Resources Control Board.
3. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Permit Condition 13 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The points of diversion under this permit shall be as follows:
  1. New Bullards Bar Dam - South 54°30' East 2,350 feet from NW corner of Section 25, T18N, R7E, MDB&M, being within SE¼ of NW¼ of said Section 25. Also described as California Coordinate System, Zone 2, North 629,700 East 2,242,800.
  2. Proposed Marysville Afterbay Dam - within SW¼ of SW¼ of Section 29, T16N, R5E, MDB&M, (precise location to be determined at time of construction).

Point of Diversion and Rediversion

3. For Brown Valley Irrigation District - South 1,800 feet and West 1,300 feet from NE corner of Section 29, T16N, R5E, MDB&M, being within SE¼ of NE¼ of said Section 29. Also described as California Coordinate System, Zone 2, North 565,000 East 2,161,550.
2. Condition 13 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board 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 Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

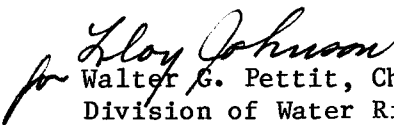
(000012)

3. Condition 21 is added to this permit as follows:

Permittee shall not divert water from Browns Valley Irrigation District's "Pumpline Diversion Facility" located South 1,800 feet and West 1,300 feet from NE corner of Section 29, T16N, R5E; being within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 29, MDB&M, until the permittee has installed fish screening devices satisfactory to the Department of Fish and Game, in accordance with "Agreement for the Installation of a Rock Barrier at the Diversion Facilities of Browns Valley Irrigation District", entered in April 27, 1982, between the Browns Valley Irrigation District and the Department of Fish and Game.

(0400500)

Dated: DECEMBER 23 1988

  
Walter G. Pettit, Chief  
Division of Water Rights

P 15027

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary )	ORDER: WR 88- 17
Urgency Change Order On Permits 15026 )	
15027 and 15030 issued pursuant to )	SOURCES: North Yuba, Yuba,
Applications 5632, 15204 and 15574 )	and Middle Yuba
)	Rivers and Oregon
YUBA COUNTY WATER AGENCY )	Creek
Permittee )	COUNTIES: Yuba, Nevada
)	Butte and Sutter
)	

ORDER MODIFYING AND VALIDATING ISSUANCE OF  
CONDITIONAL TEMPORARY URGENCY CHANGE  
IN PURPOSE OF USE AND PLACE OF USE

BY THE BOARD:

The Yuba County Water Agency (YCWA) having filed a petition for a temporary Urgency Change in purpose of use and place of use pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the Department of Fish and Game (DFG) and the Department of Water Resources (DWR); Board Chairman Maughan having concluded from available information that YCWA qualifies for a Temporary Urgency Change and having issued a Conditional Temporary Urgency Change Order on August 19, 1988, subject to review and validation by the Board as provided by Water Code Section 1435(d); the Board finds as follows:

Substance of the Proposed Change

1. The August 19, 1988 petition requests temporary urgency changes in Permits 15026, 15027, and 15030 of YCWA. The changes would be in purpose of use and place of use of up to 12,000 acre-feet (af) of water stored in New

Bullards Bar Reservoir (Bullards Bar). The term of the temporary changes is from August 19, 1988 through September 15, 1988. Under the requested changes, the water would be sold to the DWR and used in the Sacramento-San Joaquin Delta to satisfy DWR's obligation to meet water quality and outflow standards in the Delta under Water Right Decision 1485. The effect of the Temporary changes will be to allow the State Water Project (SWP) to retain in carry-over storage up to an additional 12,000 af for use in 1989.

Reasons for Change

2. On July 6, 1988, Board Order WR 88-12 authorized a trial transfer from YCWA to DWR for up to 110,000 af of water. The transfer from YCWA to the DWR is being used to maintain Delta outflow and to allow retention of a equivalent amount of SWP water in storage for use in 1989.
3. The DWR has an urgent need for water in addition to the 110,000 af authorized by Order 88-12 this year to maintain Delta outflow and increase SWP carry-over storage for 1989. Thus, this change will further the constitutional policy that the water resources of the state be put to the fullest beneficial use. In this critically dry year an action such as this is particularly urgent.
4. Improved hydrologic conditions since the Board's hearing on May 28, 1988 on the trial transfer indicate that about 10% more water is available in Bullards Bar than had been previously believed.
5. Up to 12,000 af of additional water is available this year from storage in Bullards Bar without impairing needed carry-over storage in Bullards Bar.

- (2) that the Delta SWP service area be added as a place of use and that water quality be added as a purpose of use only under this temporary urgency change.

We find that CSPA's allegation that YCWA may have lost its water right is unfounded. We note that under Water Code Section 1241 a finding of reversion must be made by this Board after notice and a opportunity for hearing before a water right may revert, and that no such finding has been made.

We agree with CSPA's allegation that the action validated herein is not exempt from CEQA. Although a finding of exemption was erroneously placed in the order allowing the change validated herein, this action is covered by the negative declaration considered in Order WR 88-12 and the August 19, 1988 addendum thereto prepared by DWR. The negative declaration and addendum were considered when the change validated herein was authorized. A finding regarding the effect of this change on the environment is set forth below.

We find the CSPA's allegation that no urgency exists for this petition is unfounded. The action validated herein meets the definition of "urgent need" under Water Code Section 1435(c). See finding 3 above.

CSPA alleges that studies listed in Order WR 88-12 should be performed before any further transfer is approved. Similarly to our finding in Order WR 88-12, the studies are more closely applicable to a long-term transfer, not to this temporary urgency change. Consequently, we will not require them as a part of this validating order.

6. The existing agreement between YCWA and DWR covers payment for up to 135,000 of this year.

Notice and Responses

7. On August 19, 1988 a Notice of the petition for Temporary Urgency Change was provided by publication and by mail to interested parties. The period for submitting objections ended September 6, 1988.

Objections were received from the California Sportfishing Protection Alliance (CSPA) and the City of Yuba City.

- a. The objection of CSPA is based on allegations that approval of the petition would conflict with Order WR 88-12 and would not be in the public interest unless certain fishery protection measures are included in this order. CSPA alleges more specifically that YCWA may have lost its right to the water which is the subject of this order by nonuse; that the action herein is not exempt from CEQA; that this petition is not urgent; that certain studies should be performed before any further transfer is approved. CSPA also makes several statements, listed as objections 1 through 3 in its written objection, which cannot be characterized as objections to this petition, but rather as comments on Order WR 88-12 and on the existence of the petition herein. CSPA states that it would not object to approval of the petition if certain terms and conditions are included in this order as follows:

- (1) that YCWA and DWR perform the studies listed in paragraph 9.5 of Order WR 88-12 before any further water transfer are approved;

### Additional Findings

8. The proposed use of water is beneficial and the Temporary Urgency Change is in the public interest, does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water and will not unreasonably affect fish, wildlife or other instream beneficial uses.
9. The DWR has adopted an addendum to the Negative Declaration we considered in adopting Order WR 88-12. We have considered the Negative Declaration and its addendum, and we find that the temporary urgency change approved herein together with the trial transfer approved by Order WR 88-12 will not have a significant environmental impact. Accordingly, the Chief of the Division of Water Rights is authorized to file a Notice of Determination pursuant to Section 15096 of the State of California Environmental Quality Act (CEQA) Guidelines.

### Action by Board Chairman Maughan

10. In accordance with the delegation of authority in Water Code Section 1435(d), and the Board's adoption of Resolution 84-2, Board Chairman Maughan issued a Conditional Temporary Urgency Change Order on August 19, 1988 allowing a temporary change to add the Delta to the place of use for up to 12,000 af of water and to add water quality to the purpose of use under the three permits listed above, subject to several specified conditions.



Regarding CSPA's request that the Delta SWP service area be made a place of use and water quality be added as a purpose of use only under this temporary urgency change, we find that water quality has been temporarily added, and under Water Code Section 1440 the addition may remain in effect only for the term of the change approved herein. Likewise, the Delta is temporarily added as a place of use; however, the permittee has not requested that the entire SWP service area be added, and consequently we cannot add it.

- b. The objection of the City of Yuba City is that the temporary urgency change could cause the water level in the Feather River to fall below the City's intake structure, which requires a water elevation of 35.0 feet. Because of a condition in Order WR 88-12 which also is a condition herein, the flows in the Feather River at Gridley may not be significantly less than 2,140 cubic feet per second (cfs). We find that a flow of 2,000 cfs or more should maintain a water elevation at or above 35.0 feet at Yuba City's intake. According to the addendum to the negative declaration, flow in the Feather River upstream from the confluence with the Yuba River would not be reduced below the rates discussed in the Initial Study for the Negative Declaration, and storage in Oroville Reservoir would not be changed by this temporary change; rather, additional water will be released from Oroville Reservoir for transfer to carry-over storage in San Luis Reservoir. To ensure that Yuba City's ability to divert water is not impaired, we will condition this validating order on the maintenance of a water elevation of at least 35.0 feet at Yuba City's intake structure.

ORDER

IT IS HEREBY ORDERED THAT:

1. The issuance of the August 19, 1988 order by Board Chairman Maughan allowing a Conditional Temporary Urgency Change in the place of use and purpose of use under Permits 15026, 15027 and 15030 is validated subject to the terms and conditions specified in the Order.
2. Feather River flows at the intake structure of the City of Yuba City shall be maintained at an elevation of 35.0 feet or above during the term of this temporary change.

CERTIFICATION

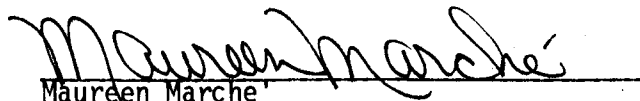
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 7, 1988.

AYE:           W. Don Maughan           Eliseo M. Samaniego           Danny Walsh

NO:           None

ABSENT:       Darlene E. Ruiz           Edwin H. Finster

ABSTAIN:     None

  
Maureen Marche  
Administrative Assistant to the Board



Resources (DWR) to maintain Delta outflow requirements under the Board's Water Right Decision 1485. During the hearing, DWR and YCWA estimated, based on recent calculations, that approximately 108,000 acre-feet actually would be transferred. The proposed transfer would allow retention of an equal amount of State Water Project (SWP) water in storage at Lake Oroville. The purpose of the transfer is to increase carry-over storage in Lake Oroville for use in 1989. Thus, if 1989 is a dry year, the trial transfer will increase the ability of the State Water Project to meet its commitments and will lessen the dry year impacts.

### 3.0 SUBSTANCE OF PERMITS

#### 3.1 Permit 15026 (Application 5632)

Permit 15026 is for direct diversion and storage. Direct diversion is authorized from North Yuba River and Yuba River for 43 cubic feet per second (cfs) and 1550 cfs respectively from September 1 through June 30. Storage under Permit 15026 is authorized in Bullards Bar up to 490,000 acre-feet per annum (afa) from October 1 to June 30 of each year.

#### 3.2 Permit 15027 (Application 15204)

Permit 15027 is for storage from North Yuba River and Yuba River. Storage is authorized in Bullards Bar up to 240,000 afa from October 1 to June 30 and storage is authorized in Marysville Afterbay for 6,000 afa from October 1 to June 30 of each year.

3.3 Permit 15030 (Application 15574)

Permit 15030 is for storage from the Yuba River. Storage is authorized in Bullards Bar up to 150,000 afa from Middle Yuba River, 44,000 afa from Oregon Creek, and 320,000 afa from North Yuba River from October 1 to June 30 of each year from each source.

3.4 Purpose of Use and Place of Use

The purposes of use for all permits are domestic, flood control, irrigation, industrial, recreational, and fish mitigation and enhancement.

The place of use is a net irrigable area of 102,989 acres within a gross area of 121,366 acres within the service area of Yuba County Water Agency.

4.0 PROTEST

One protest was received and accepted from California Sportfishing Protection Alliance (CSPA).

4.1 Bases of Protest

CSPA's protest was based on environmental issues. CSPA alleges that the transfer will do the following:

- a. "Have a potential significant environmental effect to the fisheries of the Yuba and Feather Rivers."
- b. "Have a potential significant environmental effect to the american shad sportfishery of the Feather River during the month of July."

- c. "Have a potential significant and cumulative environmental effect to sportfishing (licensed anglers -- legal users of the state's waters) for american shad in the Feather River during the month of July."
- d. "May have significant environmental effect to water quality in the Yuba and Feather Rivers."
- e. "May have a significant environment effect to two rare fish species and a part of endangered bald eagles."
- f. "May not be in the public interest."
- g. "May have a potential adverse effect on the public trust resources and uses of the Yuba and Feather Rivers."
- h. "May result in the waste and unreasonable method of diversion and use of the state's waters."
- i. "May be contrary to the requirements of the California Environmental Quality Act, and contrary to state law."

5.0 BACKGROUND

5.1 Permits

Permits 15026, 15027, and 15030, were issued pursuant to Applications 5632, 15204, and 15574 following a Board hearing and the Board's adoption of Water Right Decision 1159 on December 19, 1963. The permits authorized storage in Bullards Bar, which is formed by a

concrete-arch dam completed in 1968 on the North Yuba River. Pacific Gas and Electric Company (PG&E) funded revenue bonds of YCWA's Colgate and Narrows Power Plants operated under YCWA water right permits. PG&E is entitled, under contract, to any power generated until the year 2016. In the past, PG&E made releases of YCWA "unallocated surplus water" to maximize power generation. In 1985 the Agency began restricting releases made by PG&E to the minimums specified in the power contract. The YCWA/PG&E contract includes the Department of Fish and Game (DFG) minimum fish flow release requirements.

## 5.2 1987 Transfer

Water year 1987 was critically dry. Therefore, YCWA cut back Yuba River releases to about 77 cfs on July 1, 1987. Then YCWA increased the releases pursuant to a 1987 agreement to sell water to the Department of Water Resources. Flows were increased gradually until August 15, 1987, when a temporary permit change due to the transfer of water became effective pursuant to Water Code Section 1727. A total of 83,100 af was transferred to DWR during the summer of 1987, allowing an equal amount of additional water to be carried over in Lake Oroville into 1988.

## 5.3 Current Status of Projects

### 5.3.1 Bullards Bar

Bullards Bar is located about 29 miles northeast of Marysville on the North Yuba River. The reservoir has a total storage capacity of 961,300 af with a usable capacity of 727,400 af. Permits 15026,

15027, and 15030 limit collection to storage in Bullards Bar to 960,000 af in any year. YCWA expects up to 724,939 af to be available in storage on June 30, 1988.

The minimum fish flow in the Yuba River under an agreement with the Department of Fish and Game, during critically dry years, is 70 cfs from July 1 to September 30, and 280 cfs from October 1 to December 31 of each year. The petition proposes that the "normal year 400 cfs minimum" be maintained in the Yuba River at Daguerre Point Dam from October 1 through December 31, 1988 in the same manner as during the 1987 transfer.

#### 5.3.2 Oroville Project

Lake Oroville is located about 2 miles northeast of Oroville which is about 27 miles north of Marysville. Lake Oroville has a total storage capacity of about 3,537,600 af with a usable capacity of about 2,685,400 af. DWR expects up to 2,260,000 af to be in storage on July 1, 1988. During the 1988 proposed trial transfer, demands for releases from Lake Oroville are expected to be more than 1,000,000 af. If up to 110,000 af is available to reduce Lake Oroville demands (by meeting a portion of the 1988 Delta outflow requirements from Bullards Bar) projections indicate about 1,392,008 af would remain in storage at Oroville on September 30, 1988, of which about 852,200 af would be dead storage. If Lake Oroville has 1,392,008 af in storage on September 30, 1988, it will contain about 510,000 af more than on September 30, 1977.



The minimum fish flow release to the Feather River during critically dry years, such as 1987 and 1988, is 1,000 cfs from March through September.

#### 6.0 DESCRIPTION OF PETITIONED CHANGES

The petition states that the transfer involves rescheduling releases of up to 185,000 af of Bullards Bar water between July 1, 1988 and September 30, 1988 to replace releases which DWR would otherwise make from Lake Oroville to meet Delta outflow requirements under Water Right Decision 1485. DWR would limit water augmentation from Bullards Bar so that projected storage in Lake Oroville would not exceed 2.4 million af on September 30, 1988. The actual amount of water available for transfer to DWR would be reduced to maintain a minimum storage of 530,000 af in Bullards Bar on September 30, 1988. Any projected amount in excess of 530,000 af is considered to be "unallocated surplus water". It is available for release into the Yuba River, to flow into the Feather River, thence the Sacramento River, and on to the Delta for use in partially meeting outflow requirements on a trial basis during this critically dry year. Transferred Bullards Bar water would replace a similar amount of SWP water that would be retained in Lake Oroville for carry-over into 1989. During the transfer, flows in the Yuba River would be increased by YCWA from about the 70 cfs minimum, to about 650 cfs and Feather River flows, above the confluence with the Yuba River, would be reduced by DWR in an amount equal to the increased Yuba River flows,

but are not expected to be less than about 2,140 cfs. Flows in the Feather River below its confluence with the Yuba River would remain essentially unchanged as a result of the transfer.

The YCWA petition and proposed trial transfer of water is for the maximum amount expected during 1988 and may be subject to reduction and changes as hydrologic and project operations are better defined and additional information is developed. Testimony at the hearing indicated that the actual amount transferred would be in the neighborhood of 100,000 af. (Transcript, p. 43, line 13.) The Negative Declaration states that about 108,400 af will be transferred. Terms will be included which reserve jurisdiction and retain continuing authority over the trial transfer.

#### 7.0 AVAILABILITY OF WATER FOR TRANSFER

As stated in finding 5.3.1 Bullards Bar has a capacity of 961,300 and a usable capacity of 727,400 af. YCWA expects up to 724,939 af to be in storage on June 30, 1988. During the proposed three-month trial transfer period about 87,000 af would be withdrawn from Bullards Bar for other uses in addition to the transferred amount, leaving about 530,000 af in storage on September 30, 1988 for YCWA's use in 1989. Studies indicate that the amount of carry-over will be adequate to serve the Agency's needs in the event of a repeat of the 1977 winter runoff. Based on these figures, approximately 110,000 af is available for transfer. This amount is approximately equal to the amount for which the project impacts were analyzed in the initial study. Because this is the amount of water discussed in the initial study and estimated for this year, we will authorize a transfer up to 110,000 af for this year.

## 8.0 NO SUBSTANTIAL INJURY TO LEGAL USERS OF WATER

Notice of the proposed trial transfer was sent to the known legal users of water that could be affected by the trial transfer. No legal users of water objected to the trial transfer, and no person came forward with evidence that the trial transfer will result in a substantial injury to any legal user of water. Therefore, to comply with Water Code Section 1735, we presume that the proposed trial transfer is unlikely to cause a substantial injury to any legal user of water.

## 9.0 ENVIRONMENTAL CONSIDERATIONS

### 9.1 California Environmental Quality Act (CEQA) Compliance

DWR, as Lead Agency, prepared an Initial Study for the proposed trial transfer project which found, on the basis of available information, that the project does not have the potential to cause a significant environmental impact. A proposed Negative Declaration, along with the supporting Initial Study, was circulated by DWR for public and agency review on April 18, 1988. The Initial Study was revised on May 11, 1988 by DWR in response to the comments received by May 9, 1988 (YCWA/DWR 31) and further corrections and additions were made on May 25, 1988 (YCWA/DWR 31A). In the revised Initial Study, DWR maintained its findings that the project does not have the potential to cause a significant environmental impact. On June 9, 1988, DWR adopted a Negative Declaration for the project which incorporates the Initial Study. We take official notice of the Negative Declaration as adopted.

Pursuant to 14 Cal. Code of Regulations Section 15096 (State CEQA Guidelines), the Board is a Responsible Agency for the project. In this capacity, the Board is required to consider the Negative Declaration and Initial Study adopted by DWR, along with other relevant information, and make its own conclusions whether and how to approve the project. To comply, the Board has considered the environmental effects of the trial transfer as shown in the Negative Declaration and Initial Study adopted by DWR, and other information contained in the hearing record.

9.2 Effects on Fish, Wildlife, and Other Instream Beneficial Uses

In accordance with Water Code Section 1735, we note that the evidence in the record shows that the proposed trial transfer and associated flow changes in the Yuba and Feather Rivers due to the project will not unreasonably affect fish, wildlife, or other instream beneficial uses. However, the precise effect of the trial transfer is difficult to determine in advance.

In DFG's May 11, 1988 comments to DWR on the Draft Negative Declaration (SWRCB 1), DFG could not identify definable impacts due to the project based on its review of available information. Therefore, DFG stated in its May 11, 1988 comments that it would not object to the transfer under the following conditions:

- "1. The transfer is limited to the 1987-1988 water year.

- "2. No dry year conditions are imposed on Yuba River fisheries flow releases under permits 15026, 15027, and 15030.
- "3. Fisheries flow on the Feather River are not reduced below minimum requirements.
- "4. The terms and conditions included in the attached Supplement to Petition for Trial Transfer filed by Yuba County Water Agency are made requirements of any permit.
- "5. By February 28, 1989, Department of Water Resources and the Yuba County Water Agency will provide to Department of Fish and Game an analysis of how this transfer affected the onset of fall and winter spill flows or flood control releases into the Yuba River downstream of Englebright Reservoir."

We note that Conditions 1 through 4 above essentially have been accepted by YCWA and DWR in the Negative Declaration, the Petition for Trial Transfer, and in testimony and other representations made at the hearing. These conditions will provide adequate mitigation. Consequently, these conditions will be included in our order.

### 9.3 Measures to Avoid Significant Impacts

As a part of the trial transfer project, YCWA will provide substantially higher flows in Yuba River below Daguerre Point Dam than required in its September 2, 1965 agreement with DFG (YCWA/DWR 19).

The scheduled flow increases in the Yuba River below Daguerre Point Dam, taken from Table 3 of the revised Initial Study (YCWA/DWR 31, 31A) are shown below in Table 1. The lowest allowable flows in the September 2, 1965 YCWA-DFG agreement are also shown for comparison.

TABLE 1

MONTH (1988)	MEAN MONTHLY FLOW (cfs) YUBA RIVER BELOW DAGUERRE POINT DAM			
	Without Project	With Project	Change	Minimum Requirement*
July	70	718	+648	70
August	70	725	+655	70
September	70	546	+476	70
October	400	400	0	280
November	432	432	0	280
December	502	502	0	280

\* Lowest allowable flows in the 9/2/65 YCWA-DFG agreement for critically dry years.

These increased flows should improve conditions for fish, wildlife and other instream beneficial uses in the Yuba River over what they would likely be without the project this year.

With respect to the Feather River, Table 2 below indicates flow changes in the Feather River at Gridley expected to occur as a consequence of the project, based on a comparison of Tables 5 and 15 in the revised Initial Study (YCWA/DWR 31, 31A). Minimum required flows based on the August 26, 1983 DFG-DWR agreement are also shown in Table 2.

TABLE 2

MONTH (1988)	MEAN MONTHLY FLOW (cfs) FEATHER RIVER AT GRIDLEY			Minimum Requirement*
	Without Project	With Project	Change	
July	4,745	4,097	-648	1,000
August	3,776	3,121	-655	1,000
September	2,618	2,144	-474	1,000
October	2,499	2,499	0	1,200
November	1,351	1,351	0	1,200
December	2,708	2,708	0	1,200

\* From 8/26/83 DFG-DWR Agreement. NOTE: Further reductions from these values are allowable under specific circumstances but these circumstances are not expected to occur in 1988.

These scheduled Feather River flow reductions during the transfer period should not pose a significant environmental impact, since resulting flows will still be well above the minimum flows specified in the 1983 DFG-DWR agreement (YCWA/DWR 31, 31A). Moreover, DFG in its May 11, 1988 comments on the Draft Initial Study stated it would not object to the transfer if the flows are maintained above the minimum levels specified in the 1983 agreement.

#### 9.4 Issues Raised by Protestant

Protestant California Sportfishing Protection Alliance (CSPA) raised several environmental issues (see Section 4.1 above). The Board has reviewed carefully all of the information offered in evidence by protestant and other parties. We find that the evidence does not indicate that the trial transfer itself will cause a significant environmental impact.

The issues raised by protestant are more properly directed toward the environmental impacts of current water development projects on the Yuba and Feather River systems in general. The underlying impacts of the projects are not subjects of this particular proceeding. While there may be environmental impacts in the Yuba and Feather Rivers associated with ongoing water development projects in general, the issue before the Board is whether the trial transfer itself will cause significant environmental impacts that would not otherwise occur in the absence of the trial transfer. Protestant has not identified or produced any specific information which indicates a potential significant environmental impact due to the trial transfer that would not otherwise occur in the absence of the trial transfer.

9.5 Issues Raised by the Department of Fish and Game

As noted above, DFG stated in its May 11, 1988 comments on the Draft Negative Declaration (SWRCB 1) that it could not identify definable impacts due to the proposed trial transfer and that it would not object to the project under certain conditions. In effect, all except one of those conditions have been accepted by DWR and YCWA. They are included in our order.

Although two of the conditions directly address the Feather River, they are appropriate as conditions of this trial transfer because they avoid impacts which otherwise might occur because of the transfer. Without compliance with these conditions, there could be significant adverse impacts to the environment as a result of the trial transfer. Consequently, our approval is predicated on the existence of the appropriate conditions in the Feather River.



At the hearing, DFG appeared as an interested party and presented a statement (DFG 1). In the statement, DFG asserted that although available information was insufficient to indicate whether the trial transfer would have significant adverse impacts to fish and wildlife resources, certain specific environmental studies should be performed to evaluate the potential impacts of a permanent transfer as follows:

- "1. Studies be conducted to determine flow-habitat requirements for chinook salmon, steelhead, American shad and striped bass in the Feather River between Oroville Dam and its confluence with the Sacramento River.
- "2. Site-specific habitat use and preference data for the above species should be developed as part of these studies.
- "3. A temperature monitoring program be implemented and a temperature model be developed to provide information on temperature/flow relationships in the Feather River. These temperature/flow relationships should be integrated with Yuba and Sacramento Rivers data and requirements.
- "4. A study be conducted to develop comprehensive information and flow requirements for American shad, spawning, growth and angling use in the Yuba and Feather Rivers.
- "5. An evaluation be made of impacts on riparian habitat reproduction and growth along the Yuba and Feather Rivers which may result from long-term flow changes.
- "6. An evaluation be made of potential impacts on threatened or endangered species with particular emphasis on the Bald Eagle nest at Bullards Bar Reservoir.
- "7. An evaluation be made of impacts of any proposed flow changes on recreational use of fish and wildlife resources on the Yuba and Feather Rivers as well as Oroville and Bullards Bar Reservoirs.
- "8. An evaluation be completed of impacts of flow changes as related to diversions (fish screened and unscreened) on the Yuba and Feather Rivers."

We will not require that these studies be done as a condition of the proposed trial transfer, because they are related more closely to a potential long-term transfer of water. However, these studies would complement fish and wildlife studies now being conducted for the Yuba River, and should be performed before we consider any future long-term transfer similar to the proposed trial transfer project. (We note that since, under Section 1735, a trial transfer shall be for a period not to exceed one year, the next transfer is likely to be a long-term transfer.) Since one of the purposes of a trial transfer is to obtain information to define its precise effects on instream beneficial uses, the Board strongly encourages YCWA and DWR to initiate such studies during the 1988 trial transfer to the extent they are feasible.

#### 10.0 CONCLUSIONS

Based on the foregoing findings, we conclude as follows:

1. Substantial injury to any legal user of water as a result of the proposed trial transfer is unlikely to occur.
2. The proposed trial transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.
3. The precise effect of the proposed trial transfer on other legal users or instream beneficial uses is difficult to determine in advance of the trial transfer.

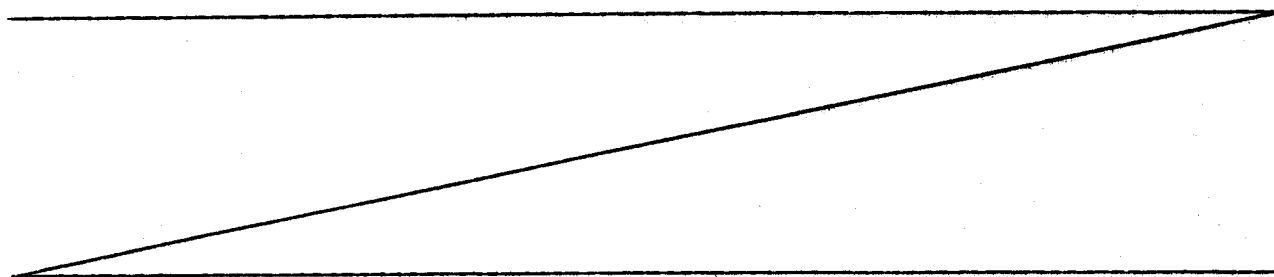
4. We have considered the environmental effects of the trial transfer as shown in the Negative Declaration and Initial Study and in the hearing record, and have found no significant adverse environmental impacts of the trial transfer.
5. The permittee should be required by the terms of our order to carry out the measures listed in the Initial Study to avoid adverse environmental effects, and to carry out most of the measures described by the Department of Fish and Game in its May 11, 1988 comments on the draft Negative Declaration.
6. The studies requested by DFG in DFG Exhibit 1 should be performed by YCWA and DWR prior to our consideration of a future long-term transfer similar to the proposed trial transfer. To the extent it is feasible, we strongly encourage DWR and YCWA to initiate such studies during the trial transfer approved herein.
7. The proposed trial transfer should be approved.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition is approved for a trial transfer of up to 110,000 acre-feet of water to Department of Water Resources for use in the Sacramento-San Joaquin Delta, subject to the following terms and conditions:

1. The trial transfer is limited to the period commencing on the date of this order and continuing through September 30, 1988.

2. No dry year conditions shall be imposed by the permittee on the Yuba River fisheries flow releases under Permits 15026, 15027, and 15030 pursuant to the agreement between the Department of Fish and Game and the Yuba County Water Agency dated September 2, 1965; permittee shall maintain a flow of at least 400 cubic feet per second in the Yuba River below Daguerre Point Dam during the balance of the 1988 calendar year after completing the trial transfer.
3. Fishery flows in the Feather River shall not be reduced below the minimum flow requirements set forth in the agreement between Department of Fish and Game and the Department of Water Resources dated August 26, 1983.
4. Feather River flows below Thermalito Afterbay Outlet during the trial transfer shall be substantially in accordance with the release schedule set forth in Table 15 of the Initial Study. Feather River flows at Gridley shall not be significantly less than 2140 cubic feet per second during the trial transfer.
5. By February 28, 1989, permittee shall provide to the Board a report indicating the mean daily flows measured in the Yuba River at the U. S. Geological Survey gage near Marysville and in the Feather River at the U. S. Geological Survey gage near Gridley for the period from the beginning of the trial transfer through December 31, 1988.



6. Pursuant to Water Code Section 1736, the State Water Resources Control Board reserves jurisdiction over this trial transfer to modify or revoke it, in the event that it finds that the trial transfer will result in substantial injury to any legal user of water. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

#### CERTIFICATION

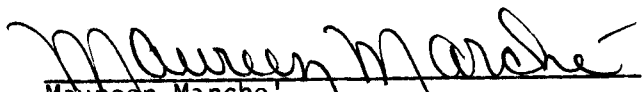
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 6, 1988.

AYE: W. Don Maughan  
Edwin H. Finster  
Eliseo M. Samaniego  
Danny Walsh

NO: None

ABSENT: Darlene E. Ruiz

ABSTAIN: None

  
Maureen Marche  
Administrative Assistant to the Board

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 15204

PERMIT 15027

LICENSE \_\_\_\_\_

ORDER FOR CORRECTION OF PERMIT TERM

WHEREAS:

1. Term No. 6 of Permit 15027 as amended by Order of the State Water Resources Control Board dated May 11, 1973, has been found to incorrectly describe the limitation of diversion to storage in New Bullards Bar Reservoir under the several permits and licenses of the Yuba County Water Agency and the State Water Resources Control Board has determined that good cause for correction has been shown.

2. Correction of Term No. 6 of Permit 15027 does not involve any physical change, and said correction will not operate to the injury of any other legal user of water.

NOW, THEREFORE, IT IS ORDERED:

That Term No. 6 of Permit 15027 be corrected to read as follows:

THE TOTAL QUANTITIES OF WATER APPROPRIATED BY STORAGE UNDER LICENSES 435, 436, 777, and 5544 AND WATER TO BE APPROPRIATED BY STORAGE UNDER PERMITS 15025, 15026, 15027, 15028, 15029, AND 15030 SHALL BE LIMITED TO 960,000 ACRE-FEET PER ANNUM AT NEW BULLARDS BAR RESERVOIR.

  
R. L. ROSENBERGER, Chief  
Division of Water Rights

Dated: MAR 30 1976

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 15204

PERMIT 15027

LICENSE \_\_\_\_\_

ORDER AMENDING THE PERMIT

WHEREAS:

1. Permit 15027 was issued to Yuba County Water Agency on March 28, 1966.
2. After reviewing the Permittee's Plan of Compliance, the staff recommended and the Permittee agreed to a term being added to Permit 15027.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 21 is added to this permit as follows:

"Any fishery flow release requirements contained or referenced in this permit shall be made in accordance with the permittee's Plan of Compliance accepted by the Division of Water Rights."  
(0000500)

Dated: SEPTEMBER 23 1986

*Raymond Walsh*

Raymond Walsh, Chief  
Division of Water Rights

STATE WATER RESOURCES CONTROL BOARD

## DIVISION OF WATER RIGHTS

ROOM 1015, RESOURCES BUILDING

1416 NINTH STREET • SACRAMENTO 95814



ORDER ALLOWING CHANGE IN POINTS OF DIVERSION,  
CHARACTER OF USE AND TOTAL QUANTITY LIMIT,  
AMENDING PERMIT TERM 13 AND ADDING  
PERMIT TERM 20

Permit 15027

Application 15204

WHEREAS, the State Water Resources Control Board has found that the requested changes under Permit 15027 for which petitions were submitted on September 30, 1971 will not operate to the injury of any other legal user of water; and

WHEREAS, the Board has approved and allowed said changes and has directed that an order be issued to describe said points of diversion, character of use and total quantity limit in accordance with said petitions;

NOW, THEREFORE, IT IS ORDERED that permission is hereby granted to: (1) change the points of diversion under said Permit 15027 to be described as follows:

- (1) NEW BULLARDS BAR DAM SOUTH  $54^{\circ}30'$  EAST 2,350 FEET FROM NW CORNER OF SECTION 25, T18N, R7E, MDB&M, BEING WITHIN  $SE\frac{1}{4}$  OF  $NW\frac{1}{4}$  OF SAID SECTION 25
- (2) PROPOSED MARYSVILLE AFTERBAY DAM WITHIN  $SW\frac{1}{4}$  OF  $SW\frac{1}{4}$  OF SECTION 29, T16N, R5E, MDB&M (PRECISE LOCATION TO BE DETERMINED AT TIME OF CONSTRUCTION)

(2) change the character of use under said Permit 15027 to read:

IRRIGATION, DOMESTIC, INDUSTRIAL, RECREATIONAL,  
FLOOD CONTROL, FISH MITIGATION AND FISH ENHANCEMENT

(3) change Permit Term 6 to read:

THE TOTAL QUANTITIES OF WATER APPROPRIATED UNDER LICENSES 435, 436, 777 AND 5544 AND WATER TO BE APPROPRIATED BY STORAGE UNDER PERMITS 15025, 15026, 15027, 15028, 15029 AND 15030 SHALL BE LIMITED TO 960,000 ACRE-FEET PER ANNUM AT NEW BULLARDS BAR RESERVOIR.



IT IS FURTHER ORDERED that: (1) Permit Term 13 be amended by addition of the following:

THIS CONTINUING AUTHORITY OF THE BOARD MAY BE EXERCISED BY IMPOSING SPECIFIC REQUIREMENTS OVER AND ABOVE THOSE CONTAINED IN THIS PERMIT WITH A VIEW TO MINIMIZING WASTE OF WATER AND TO MEETING THE REASONABLE WATER REQUIREMENTS OF PERMITTEE WITHOUT UNREASONABLE DRAFT ON THE SOURCE. PERMITTEE MAY BE REQUIRED TO IMPLEMENT SUCH PROGRAMS AS (1) REUSING OR RECLAIMING THE WATER ALLOCATED; (2) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (3) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (4) CONTROLLING PHREATOPHYTIC GROWTH; AND (5) INSTALLING, MAINTAINING, AND OPERATING EFFICIENT WATER MEASURING DEVICES TO ASSURE COMPLIANCE WITH THE QUANTITY LIMITATIONS OF THIS PERMIT AND TO DETERMINE ACCURATELY WATER USE AS AGAINST REASONABLE WATER REQUIREMENTS FOR THE AUTHORIZE PROJECT. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD DETERMINES, AFTER NOTICE TO AFFECTED PARTIES AND AN OPPORTUNITY FOR HEARING, THAT SUCH SPECIFIC REQUIREMENTS ARE PHYSICALLY AND FINANCIALLY FEASIBLE AND ARE APPROPRIATE TO THE PARTICULAR SITUATION.

(2) Permit Term 20 be added to the permit as follows:

THE QUANTITY OF WATER DIVERTED UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD IF, AFTER NOTICE TO THE PERMITTEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

Dated: MAY 11 1973

(0000013)

*K. L. Woodward*  
K. L. Woodward, Chief  
Division of Water Rights

STATE OF CALIFORNIA—RESOURCES AGENCY  
STATE WATER RIGHTS BOARD

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT NO. 15027

Application 15204 of Yuba County Water Agency  
c/o Alvin Landis, Atty. at Law, Suite 1116, 926 J Building, Sacramento, California 95814  
filed on February 20, 1953, has been approved by the State Water Rights Board  
SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

- | 1. Name of source(s):       | Tributary to:            |
|-----------------------------|--------------------------|
| (a) <u>North Yuba River</u> | (a) <u>Yuba River</u>    |
| (b) <u>Yuba River</u>       | (b) <u>Feather River</u> |
| (c) _____                   | (c) _____                |
| (d) _____                   | (d) _____                |
| (e) _____                   | (e) _____                |

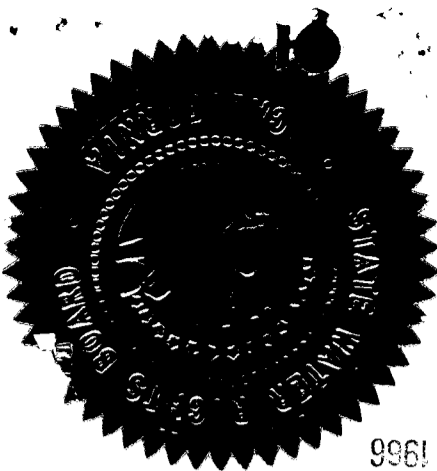
2. Location of point(s) of diversion:

Bearing and distance or coordinate distances from section corner or quarter-section corner	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(a) <u>New Bullards Bar Dam</u> <u>S34°30'E 2690' from NW corner Section 25</u>	<u>SE 1/4 of NW 1/4</u>	<u>25</u>	<u>18N</u>	<u>7E</u>	<u>MDB&amp;M</u>
(b) <u>Timbuctoo Afterbay</u> <u>N52°00'E 2980' from SW corner Section 21</u>	<u>NE 1/4 of SW 1/4</u>	<u>21</u>	<u>16N</u>	<u>6E</u>	<u>MDB&amp;M</u>
(c) <u>Rediversion at Irrigation Diversion Weir on Yuba River</u> <u>N42°10'W 3475' from SE corner Section 28</u>	<u>NW 1/4 of SE 1/4</u>	<u>28</u>	<u>16N</u>	<u>5E</u>	<u>MDB&amp;M</u>
(d) _____	<u>1/4 of 1/4</u>				
(e) _____	<u>1/4 of 1/4</u>				

County of Yuba

3. Place of use: Within Yuba County Water Agency service area consisting of a net irrigable area of 102,989 acres within a gross area of 121,366 acres, as shown on map in support of this application on file with the State Water Rights Board.

4. Purpose(s) of use: Irrigation, flood control, domestic, industrial, and recreational.



Dated: MAR 28 1966

STATE WATER RIGHTS BOARD

L. K. HILL  
Executive Officer

*L. K. Hill*

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.  
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.  
Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

*This permit is issued and permittee takes it subject to the following provisions of the Water Code:*

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 240,000 acre-feet per annum (afa) by storage in New Bullards Bar Reservoir on North Yuba River from about October 1 of each year to about June 30 of the succeeding year; and 6000 afa by storage in Tumbuctoo Afterbay from about October 1 to about June 30 of each year. (6000005)
6. The total quantities of water to be appropriated by storage under permits issued pursuant to Applications 5631, 5632, 15204, 15205, 15563, and 15574 shall be limited to 950,000 afa at New Bullards Bar Reservoir and 6000 afa at Tumbuctoo Afterbay. (0000005)
7. The maximum amounts herein stated may be reduced in the license if investigation warrants.
8. Actual construction work shall begin on or before June 1, 1967, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, the permits may be revoked. (0000006)
9. Construction work shall be completed on or before December 1, 1973. (0000008)
10. Application of the water to the proposed uses shall be completed on or before December 1, 2010. (0000009)
11. Upon the request of the Board, permittee shall make such measurements and maintain and furnish to the Board such records and information as may be necessary to determine compliance with the limitations and conditions of this permit including the recognition of vested rights and for the purpose of determining the quantities of water placed to beneficial use under this permit by storage. (0090800)
12. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued. (0000010)
13. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water. (0000012)
14. This permit does not authorize collection of water to storage outside of the specified storage season to offset evaporation or seepage losses or for any other purpose.
15. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
16. In accordance with Water Code Section 1393, Yuba County Water Agency shall clear the site of New Bullards Bar Reservoir, Tumbuctoo Afterbay and the reservoir to be created by the Irrigation Diversion Weir on Yuba River of all structures, trees and other vegetation which would interfere with the use of the reservoirs for water storage and recreation purposes. (0120050)
17. This permit is subject to lawful appropriation of water for use in any county in which the water originates without regard to the time such appropriations are initiated. (0000000)
18. This permit is subject to that certain agreement between Yuba County Water Agency and Nevada Irrigation District dated November 13, 1961, filed of record with the State Water Rights Board as Yuba's Exhibit 37 at the hearing of Applications 5631, etc., insofar as such agreement relates to matters within the jurisdiction of the Board. (0430300)
19. This permit is subject to that certain agreement between Yuba County Water Agency and the California Department of Fish and Game dated November 28, 1962, and filed of record with the State Water Rights Board as Yuba's Exhibit 38 at the hearing of Applications 5631, etc., insofar as such agreement relates to matters within the jurisdiction of the Board. (0430300)