



State Water Resources Control Board



Division of Water Rights

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Linda S. Adams

Secretary for

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Arnold Schwarzenegger

Governor

**NOTICE OF PETITION FOR TEMPORARY URGENCY CHANGE
INVOLVING A CHANGE IN PERMIT CONDITIONS REGARDING THE USE OF
JOINT POINTS OF DIVERSION AND THE YUBA TRANSFER
UNDER SPECIFIED PERMITS OF
THE STATE WATER PROJECT, THE CENTRAL VALLEY PROJECT, AND
PERMIT 15026 (APPLICATION 5632) OF THE YUBA COUNTY WATER AGENCY**

Notice is hereby given that on June 17, 2008, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR), hereinafter collectively referred to as the Projects, filed with the State Water Resources Control Board (State Water Board) a Petition for Temporary Urgency Change pursuant to Water Code section 1435, et seq., in response to the Governor's proclamations of June 4 and 12, 2008. In Revised Decision 1641 (D-1641) the State Water Board amended specified permits for the State Water Project (SWP) and the Central Valley Project (CVP) (listed in Table 1 on page 3 of this notice), authorizing the Projects to use each other's Delta points of diversion, also referred to as joint points of diversion (JPOD) operations, subject to certain conditions. One of the conditions of approval was the requirement that the Projects meet all other provisions of their permits to perform JPOD operations. One of the provisions of the Projects' permits is the requirement that the Projects meet certain water quality objectives for agricultural beneficial uses in the southern Delta.

In Corrected Order 2008-0014 the State Water Board added the Clifton Court Forebay and the Jones Pumping Plant as points of rediversion under Yuba County Water Agency's (YCWA) Permit 15026 (Application 5632) to facilitate the long-term transfer of up to 200,000 acre-feet (af) of water per calendar year (hereinafter referred to as the Yuba transfer). The addition of the Clifton Court Forebay and the Jones Pumping Plant as points of rediversion under Permit 15026 is conditioned upon the Project operators' compliance with the water quality objectives set forth in Tables 1, 2, and 3 on pages 181 to 187 of D-1641.

The subject petition requested a temporary change in these requirements to conditionally allow JPOD operations and the Yuba transfer to occur when certain southern Delta water quality objectives for agricultural beneficial uses are not being met. Temporary urgency changes under Water Code section 1435 may be effective for a period of up to 180 days.

STATE WATER RESOURCES CONTROL BOARD ACTION

Pursuant to Water Code section 1438, subdivision (a), the State Water Board may approve a petition for temporary urgency change prior to issuing public notice of the

California Environmental Protection Agency

change. The State Water Board has reviewed the subject petition, comments filed by the South Delta Water Agency (SDWA), and other information contained in its files.

Based on the information currently available, on July 1, 2008, the State Water Board issued Order WR 2008-0029-EXEC conditionally approving the temporary change in the requirements to allow JPOD operations and the Yuba transfer to occur through December 12, 2008, when certain southern Delta water quality objectives for agricultural beneficial uses are not being met. A copy of Order WR 2008-0029-EXEC is attached to this notice and available for viewing online at <http://www.waterrights.ca.gov/hearings/wro2008.html>. Electronic copies of this notice, the subject petition, and the comments filed by SDWA are available for viewing online at: <http://www.waterrights.ca.gov/application/tempurgnotices.htm>.

CURRENT DRY CONDITIONS

On June 12, 2008, after assessing the full impact that the severe water shortages have had on San Joaquin Valley agriculture, Governor Schwarzenegger issued a proclamation, proclaiming a state of emergency within the counties of Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern.

In light of the water shortages and the Governor's proclamation, the Projects identified an urgent need for the requested changes to authorize the use of JPOD and the Yuba transfer during the summer and fall. Without the requested changes, the Projects would not have the flexibility JPOD provides, and it might not be possible to fully implement the Yuba transfer, because, given the current "critically dry" status, the southern Delta salinity objectives will likely be exceeded through this summer. Thus, the urgency change is needed to avoid curtailing the ability of the Projects to coordinate and implement operations that would assist water suppliers and alleviate the impacts to San Joaquin Valley agriculture.

PROPOSED TEMPORARY URGENCY CHANGES

The CVP and SWP permits that are subject to JPOD conditions are listed in Table 1, below. The subject petition requested that the condition in these permits pertaining to the use of JPOD be amended. These conditions are delineated in D-1641 as Condition 1.a.(4) (found on page 150) and Condition 2.a.(4) (found on page 156). The subject petition requested that these conditions be replaced with the following term:

- (4) All other provisions of the above permits are met, provided, however, if the southern Delta water quality objectives are exceeded, and the State Water Board's Executive Director has found that (i) no additional reasonable control measures exist that

the SWP or CVP could take this summer or fall in order to meet the objectives, and (ii) the use of JPOD will not unreasonably affect salinity in the southern Delta, then JPOD may occur.

**Table 1
SWP and CVP Permits Subject to JPOD**

SWP Water Rights			
Application No.	Permit No.	License No.	Description
5630	16478	n/a	Oroville Project
14443	16479	n/a	Oroville Project
14445A	16481	n/a	Banks Pumping Plant
17512	16482	n/a	San Luis Reservoir
CVP Water Rights			
Application No.	Permit No.	License No.	Description
5626	12721	n/a	Shasta Project
5628	11967	n/a	Trinity Project
9363	12722	n/a	Shasta Project
9364	12723	n/a	Shasta Project
9368	12727	n/a	Tracy Pumping Plant
CVP Water Rights (continued)			
Application No.	Permit No.	License No.	Description
13370	11315	n/a	Folsom Project
13371	11316	n/a	Folsom Project
15374	11968	n/a	Trinity Project
15375	11969	n/a	Trinity Project
15376	11970	n/a	Trinity Project
15764	12860	n/a	San Luis Reservoir
16767	11971	n/a	Trinity Project
16768	11972	n/a	Trinity Project
17374	11973	n/a	Trinity Project
17376	12364	n/a	Whiskeytown Lake

The petition also proposed to temporarily amend YCWA's Permit 15026 by revising Condition 4. on page 60 of Corrected Order 2008-0014 so that it reads as follows:

Rediversion of water at the Clifton Court Forebay and the Jones Pumping Plant pursuant to this Order is subject to compliance by the operators with all

applicable biological opinions, and any court orders applicable to these operations. Rediversion of water at the Clifton Court Forebay and the Jones Pumping Plant pursuant to this Order is also subject to compliance by the operators with the objectives currently required of the Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR) set forth in Tables 1, 2, and 3 on pages 181 to 187 of State Water Board Revised Decision 1641 (D-1641), or any future State Water Board order or decision implementing Bay-Delta water quality objectives at those plants, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and USBR, with the following exception:

If the southern Delta water quality objectives are exceeded, and the State Water Board's Executive Director has found that (i) no additional reasonable control measures exist that the SWP or CVP could take this summer or fall in order to meet the objectives, and (ii) the addition of the Clifton Court Forebay and the Jones Pumping Plant as points of rediversion to Permit 15026 pursuant to State Water Board Corrected Order 2008-0014 will not unreasonably affect salinity in the southern Delta, then the rediversion of water at those locations under Permit 15026 may occur.

To demonstrate that JPOD and the Yuba transfer will not adversely impact the otherwise existing environment, DWR used modeling results from the Delta Simulation Model 2 (DSM2) to evaluate the water quality conditions with and without JPOD and transfer operations. The base run includes the upstream releases and Delta exports anticipated, without any water transfers during the months of June through August. The alternative run incorporates the increased release and export levels to support a combined water transfer amount of 1,300 cfs, which approximates the anticipated magnitude of the Yuba transfer and additional transfers that are not the subject of the temporary urgency change petition discussed in this notice.

The model results indicated that the objectives would be met at the three southern Delta compliance locations (San Joaquin River at Brandt Bridge, Old River near Middle River, and Old River near Tracy Road Bridge). DSM2, however, tends to underestimate the salinity discharges from local agricultural and municipal drainages in the southern Delta channels. Actual salinity levels are therefore expected to be greater than depicted in the model output and southern Delta salinity objectives will likely be exceeded. Model results do not indicate, however, that there will be a significant increase in salinity due to the proposed JPOD and transfers operations (which include the Yuba transfer). In fact, model results indicate a slight improvement in water quality at two of the southern Delta salinity compliance locations.

OTHER AGENCY CONSULTATION

Prior to submitting the subject petition, the Projects consulted with the Department of Fish and Game (DFG) regarding the proposed temporary urgency change. DFG responded by stating it has no objection to the proposed temporary urgency change, based on the modeling results, which indicate southern Delta water quality will not be made worse by use of JPOD and transfer operations. DFG stated that if water quality is not impacted by the proposed temporary urgency change, then fish will not be adversely affected.

STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS

Chapter 6.6 of part 2, division 2, of the Water Code, commencing at section 1435, provides that any permittee (or licensee) who has an urgent need to change a point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for a conditional temporary change order. The State Water Board must make the findings specified in section 1435, subdivision (b) when issuing a temporary change order pursuant to Chapter 6.6. The required findings are:

1. The permittee has an urgent need to make the proposed change.
2. The proposed change may be made without injury to any other lawful user of water.
3. The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses.
4. The proposed change is in the public interest, including findings to support change order conditions imposed to ensure that the change is in the public interest, and may be made without injury to any other lawful user of the water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

The State Water Board has retained jurisdiction to modify Order WR 2008-0029-EXEC. Any person may file an objection to the changes authorized in Order WR 2008-0029-EXEC, however, the objection should address the issues that the SWRCB must evaluate, as set forth above. Although the State Water Board has approved the temporary changes in the requirements to allow JPOD operations and the Yuba transfer to occur through December 12, 2008, when certain southern Delta water quality objectives for agricultural beneficial uses are not being met, the State Water Board may in its discretion modify or revoke this approval at any time.

Objections filed in response to this notice shall be mailed to the three parties listed below. Since this change is currently in effect, objectors requesting modification or revocation of Order WR 2008-0029-EXEC should file their objections as soon as possible, **and must file their objections no later 3:00 pm on September 26, 2008.** The State Water Board will consider objections regarding this petition as soon as

possible after their receipt. Interested parties are encouraged to file objections by FAX and to notify the following contact persons by telephone of any objections that will be submitted. However, an original copy of any objection must be received by the State Water Board to be considered.

Department of Water Resources
c/o Robert B. Cooke
P.O. Box 942836
Sacramento, CA 94236-0001

United States Bureau of Reclamation
c/o Richard J. Woodley
2800 Cottage Way
Sacramento, CA 95825

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

Please address questions about this notice to Greg Wilson at (916) 341-5427.

Original signed by

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: August 27, 2008