

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WR 2001 - 18 - DWR

IN THE MATTER OF PERMITS 13856 AND 13858
(APPLICATIONS 18085 AND 18087)
TEMPORARY CHANGE INVOLVING THE TRANSFER OF
UP TO 20,000 ACRE-FEET OF WATER
TO CALFED'S ENVIRONMENTAL WATER ACCOUNT
ADMINISTERED BY THE DEPARTMENT OF WATER RESOURCES
UNDER PLACER COUNTY WATER AGENCY'S WATER RIGHT

ORDER AUTHORIZING TEMPORARY CHANGE IN PLACE OF USE,
PURPOSE OF USE, AND POINT OF REDIVERSION
BY THE CHIEF OF THE DIVISION OF WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On June 15, 2001,

Placer County Water Agency
c/o Einar Maisch, Dir. Strat. Serv.
144 Ferguson Road
Auburn, CA 95670

filed with the State Water Resources Control Board (SWRCB) a Petition for Temporary Change under Water Code section 1725, *et seq.* If approved, the service areas of the State Water Project and Central Valley Project would be temporarily added to the authorized place of use under water right permits 13856 and 13858 held by the Placer County Water Agency (PCWA). The approval would allow a transfer of 20,000 acre-feet of water under PCWA's water rights to CALFED's Environmental Water Account. The temporary change would be effective until December 31, 2001. The use of the transferred water would be administered by the Department of Water Resources as part of CALFED's Environmental Water Account.

2.0 BACKGROUND

2.1 Substance of PCWA's Permits Permit 13856 was issued to PCWA on January 10, 1963. Permit 13856 authorizes PCWA to divert up to 1225 cubic feet per second and collect to storage 249,000 acre-feet from November 1 to July 1 of each year for domestic, irrigation, industrial, municipal and recreational purposes.

Permit 13858 was issued to PCWA on January 10, 1963. Permit 13858 authorizes PCWA to divert up to 800 cubic feet per second and collect to storage 66,000 acre-feet from November 1 to July 1 of each year for domestic, irrigation, industrial, municipal and recreational purposes.

3.0 AVAILABILITY OF WATER FOR TRANSFER

PCWA estimates it will have approximately 186,300 acre-feet of water in storage by June 30, 2001, in its Middle Fork Project reservoirs (French Meadows and Hell Hole reservoirs). This water is stored pursuant to a Federal Energy Regulatory Commission license (Project No. 2079) and water right permits 13855, 13856, 13857, and 13858. Of this amount, 34,800 acre-feet is committed to be delivered to PCWA's contractors or is needed for delivery to PCWA's customers during the proposed transfer period. Of the remaining 151,500 acre-feet, 51,500 acre-feet will be used for power generation and 100,000 acre-feet is reserved for carryover storage for 2002, in the absence of the transfer. Minimum storage under FERC License 2079 is 50,000 acre-feet, leaving a surplus of 50,000 acre-feet available for transfer. PCWA proposes to transfer only 20,000 acre-feet of this surplus.

The 20,000 acre-feet proposed to be released for transfer to the Environmental Water Account is currently in storage and will not be released this year except to the extent the transfer petition is approved. The Department of Water Resources and the US Bureau of Reclamation have agreed that the release of this water from storage is "new water" which would not otherwise be available during this dry year.

In light of the above, I find in accordance with Water Code section 1727(b)(1) that the proposed transfer would not injure any legal user of the water and that the proposed temporary change of water rights involves only the amount of water that would have been consumptively used or stored in the absence of the temporary change.

4.0 ENVIRONMENTAL CONSIDERATIONS

In accordance with Water Code section 1729, temporary changes involving transfer of water are exempt from the requirements of the California Environmental Quality Act (Public Resources Code section 21000, et seq.). However, the SWRCB must consider potential impacts on fish, wildlife and other instream beneficial uses in accordance with Water Code section 1727(b)(2).

The proposed temporary change in place of use, purpose of use, and point of diversion involves water that was previously stored. Since the water proposed for transfer would temporarily benefit fishery resources by providing increased flows and decreased water temperatures in a critically dry year there is no apparent reason why increased flows during the summer would harm fishery resources.

In light of the above, I find that in accordance with Water Code section 1727(b)(2) that the proposed transfer would have no unreasonable effects on fish, wildlife or other instream beneficial uses.

5.0 COMMENTS RECEIVED ON THE PROPOSED TRANSFER/EXCHANGE

Only one comment by the United States Bureau of Reclamation (USBR) was received by the July 19, 2001 deadline date. USBR approved of the transfer and agreed that the transfer would not adversely affect the water rights or operations of the CVP provided PCWA adheres to the refill agreement criteria established by Contract No. 01-WC-20-2034.

6.0 TRANSFER ALLOCATION

The amount authorized for transfer under the submitted petition is 20,000 acre-feet. PCWA has until December 31, 2001 to transfer the above water. Any water transferred prior to the date of this order and after December 31, 2001 is not authorized.

7.0 SWRCB'S DELEGATION OF AUTHORITY

On April 29, 1999, the SWRCB adopted Resolution 99-031, continuing the delegation of authority to approve petitions for temporary changes to the Chief of the Division of Water Rights, provided the necessary statutory findings can be made.

8.0 CONCLUSIONS

There is adequate information in the Division's files to make the evaluation required by Water Code section 1727; and therefore I find as follows:

1. The proposed temporary change will not injure any legal user of the water.
2. The proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses.
3. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition for temporary change in the point of diversion, place of use and purpose of use under Placer County Water Agency's Permits 13856 and 13858 of up to 20,000 acre-feet of water is approved.

All existing terms and conditions of the subject permit remain in effect, except as temporarily amended by the following provisions:

1. The transfer shall be carried out between the issuance date of this order and December 31, 2001.

2. For the purposes of this transfer, the place of use shall be temporarily changed as follows:

The authorized place of use is temporarily expanded to include the service areas of the State Water Project and Central Valley Project as shown on maps on file with the SWRCB.

3. For the purposes of this transfer, Permits 13856 and 13858 are temporarily amended to include the following additional points of diversion:

Harvey O. Banks Pumping Plant within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Projected section 20, T1S, R3E, MDB&M.

CVP Pumping Plant within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Projected section 31, T1S, R4E, MDB&M.

4. For the purposes of this transfer, Permits 13856 and 13858 are temporarily amended to include fish and wildlife enhancement.
5. Within 60 days of the completion of the transfer/exchange, but no later than April 1, 2002, the permittee shall provide to the Chief of the Division of Water Rights a report describing the use of the water transferred pursuant to this Order. The report shall include a summary showing the monthly amounts of water actually transferred under this Order.

The report should include the following information:

- a. General locations where the transferred water was used;
 - b. The monthly amounts of water each location received; and
 - c. The average application rate of water in the locations.
6. Permittee shall comply with all existing operation standards at the point of diversion including those contained in Water Right Decision 1641, other applicable water right permits, licenses or orders, and applicable conditions set forth in biological opinions established under the State or Federal Endangered Species Acts.
 7. The refill criteria set forth under contract No. 01-WC-20-2034 between PCWA and USBR dated July 3, 2001, shall govern the conditions which refill occurs for the transferred storage allowed in this order.
 8. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB 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 SWRCB also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

9. This Order does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this temporary transfer, the Permittee shall obtain authorization for an incidental take permit prior to construction or operation.

Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.

10. I reserve jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

David L. Bevington
for Harry M. Schueller, Chief
Division of Water Rights

Dated: August 2, 2001



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Water Rights
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Gray Davis
Governor

In Reply Refer
to: 333:BRC:18085,18087

AUG 02 2001

Placer County Water Agency
c/o Elinar Maisch, Dir. Strat. Serv.
144 Ferguson Road
Auburn, CA 95670


Dear Ms. Maisch:

PERMITS 13856 AND 13858 (APPLICATIONS 18085 AND 18087)
UPPER AMERICAN RIVER IN PLACER COUNTY

Enclosed is a copy of the Order approving temporary changes in the point of redirection, purpose of use, and place of use in response to Placer County Water District's request for a temporary transfer of water under Water Code section 1725, et seq. This transfer of water is limited to a period commencing on the date of the Order through December 31, 2001.

Should you have any questions, please contact Brian Coats, the staff person assigned to this project at (916) 341-5311.

Sincerely,

for 
Harry M. Schueller, Chief
Division of Water Rights

Enclosure

cc: (See attached list)

Placer County Water Agency
c/o Elinar Maisch, Dir. Strat. Serv.
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CC Mailing List:

Department of Water Resources
c/o Dan Flory
P.O. Box 942836
Sacramento, CA 94236-001

Kronick, Moskovitz, Tiedemann and Girard
c/o Janet Goldsmith
400 Capitol Mall, 27th Floor
Sacramento, CA 95814-3363