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## State Water Resources Control Board

### **NOTICE OF PETITIONS FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF UP TO 10,000 ACRE-FEET OF WATER FROM SOUTH FEATHER WATER & POWER AGENCY TO SANTA CLARA VALLEY WATER DISTRICT UNDER PERMITS 1267 AND 2492 (APPLICATIONS 1651 AND 2778)**

On May 13, 2022, South Feather Water & Power Agency (SFWPA or petitioner), filed two Petitions for Temporary Change with the State Water Resources Control Board (State Water Board) to transfer up to 10,000 acre-feet (af) of water pursuant to Water Code section 1725 et seq., under water right Permits 1267 and 2492 (Applications 1651 and 2778). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year.

#### **DESCRIPTION OF THE TRANSFER**

SFWPA proposes to transfer the water from July through November 2022 to the Santa Clara Valley Water District (Valley Water). The transfer would involve up to 5,000 af of water previously stored in Little Grass Valley Reservoir under Permit 1267 and up to 5,000 af of water previously stored in Sly Creek Reservoir under Permit 2492.

SFWPA proposes to rely on SWP and/or CVP facilities to convey water. SFWPA has stated that the proposed transfer will be in accordance with the guidelines contained in the Department of Water Resources' "Draft Technical Information for Preparing Water Transfer Proposals", published December 2019 and available at: [Department of Water Resources Water Transfers website](#).

#### **PROPOSED CHANGES**

SFWPA requests the following temporary changes to their water right Permits 1267 and 2492 (Applications 1651 and 2778).

1. Add the Banks Pumping Plant, the Barker Slough Pumping Plant, and the Jones Pumping Plant as points of rediversion;
2. Add Lake Oroville and San Luis Reservoir as points of rediversion; and
3. Add the service area of Valley Water as an additional place of use.

## **ENVIRONMENTAL CONSIDERATIONS**

Temporary changes petitioned pursuant to Water Code section 1725 are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

## **STATUTORY PROVISIONS**

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

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

Water Code section 1727, subdivision (e) states in part that when evaluating transfers, "...the board shall not deny, or place conditions on, a temporary change to avoid or mitigate impacts that are not caused by the temporary change..." Additionally, Water Code section 1727, subdivision (d) states in part that "...the board shall not modify any term or condition of the petitioner's permit or license, including those terms that protect other legal users of water, fish, wildlife, and other instream beneficial uses, except as necessary to carry out the temporary change..."

## **OPPORTUNITY FOR COMMENTS**

Pursuant to Water Code section 1726, subdivision (d), the State Water Board is providing notice of these petitions and seeking information to assist in the evaluation of the proposed temporary changes. Comments may address individual or multiple petitions; comments should identify the application or permit numbers being addressed. The comments must address one or more of the required findings described above; only comments related to effects caused by the temporary changes will be considered.

The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of the water, or unreasonably affect fish, wildlife, or other instream beneficial uses. If the State Water Board determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code section 1727). Since at this time the State Water Board has not made a determination regarding whether the petitions identified above present prima facie cases, persons commenting on a petition should provide sufficient information to support claims of injury or effects on fish, wildlife, or other instream uses.

Pursuant to California Water Code section 1726 subdivision (f), any interested person may file a comment regarding the petition. **The 30-day comment period per Water Code section 1726 subdivision (f) has been reduced to 15 days per the Governor's Proclamation of a State of Emergency in the Klamath River, Sacramento-San Joaquin Delta, and Tulare Lake watershed Counties due to drought (Drought Proclamation) dated May 10, 2021. This Drought Proclamation will help expedite processing of water transfers. Comments filed in response to this notice should be submitted to the persons listed below and must be received by 4:30 p.m. on June 7, 2022.**

Send comments to both:

Arvin Chi  
State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812  
[arvin.chi@waterboards.ca.gov](mailto:arvin.chi@waterboards.ca.gov)

South Feather Water & Power Agency  
c/o Dustin C. Cooper  
Minasian, Meith, Soares, Sexton &  
Cooper, LLP  
1681 Bird Street  
P.O. Box 1679  
Oroville, CA 95965  
[dcooper@minasianlaw.com](mailto:dcooper@minasianlaw.com)

For more information regarding this matter, please contact Arvin Chi by email at [arvin.chi@waterboards.ca.gov](mailto:arvin.chi@waterboards.ca.gov).

Date of Notice: **May 23, 2022**