

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2010-0022-DWR

IN THE MATTER OF LICENSE 11118 (APPLICATION 14804)
PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 10,000 ACRE FEET OF WATER
FROM THE SOUTH SUTTER WATER DISTRICT
TO EIGHT STATE WATER CONTRACTOR AGENCIES

ORDER AUTHORIZING TEMPORARY CHANGE IN POINTS OF REDIVERSION,
PLACE OF USE, AND PURPOSE OF USE

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On April 7, 2010,

South Sutter Water District
c/o Marc Van Camp
MBK Engineers
1771 Tribute Road, Suite A
Sacramento, CA 95815

filed with the State Water Resources Control Board (State Water Board) a Petition for Temporary Change under Water Code section 1725, et seq. South Sutter Water District's (SSWD) petition requests the transfer of up to 10,000 acre-feet (af) of water to eight State Water Contractor Agencies. Water would be used within the State Water Project (SWP) service area. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

1.1 Description of the Transfer. SSWD proposes to transfer up to 10,000 af of water under License 11118 (Application 14804) to the Antelope Valley-East Kern Water Agency, the Dudley Ridge Water District, the Kern County Water Agency, the Metropolitan Water District of Southern California, the Napa County Flood Control and Water Conservation District, the Oak Flat Water District, the Palmdale Water District, and the San Bernardino Valley Municipal Water District (hereinafter collectively referred to as the Agencies). To facilitate the transfer, SSWD proposes to release an additional 10,000 af of water currently stored in Camp Far West Reservoir and Camp Far West Diversion Dam into the Bear River, tributary to the Feather River, thence the Sacramento River thence the San Francisco Bay/Sacramento-San Joaquin Delta. The water would be available for rediversion at the SWP's Banks Pumping Plant and Barker Slough Pumping Plant and delivery to the Agencies.

The petition states that in the absence of this transfer, the subject 10,000 af of water would either remain in storage within Camp Far West Reservoir or be released for use within SSWD.

1.2 Previous Similar Transfers. In 2008 and 2009, SSWD received approval from the State Water Board for transfers similar to the proposed temporary change (see Corrected Order WR 2008-0034-DWR and Corrected Order WR 2009-0040-DWR). Both transfers involved a total of 10,000 af. In 2008, the transferees were several SWP water agencies and in 2009, the transferee was the 2009 Drought Water Bank. The petition includes information on the operations of Camp Far West Reservoir and its main canal deliveries to SSWD for the 2009 transfer.

1.3 Groundwater Substitution. SSWD's petition states that its landowners receive their base water supply from groundwater pumping and receive supplemental water from Camp Far West Reservoir. The petition states that landowners will not change their cropping patterns due to the transfer. SSWD anticipates that as a result of the proposed transfer, up to 10,000 additional af of groundwater pumping could occur. The Department of Water Resources (DWR) has entered into an agreement with SSWD, titled *Agreement Between the Department of Water Resources of the State of California, Antelope Valley-East Kern Water Agency and South Sutter Water District for the Storage and Conveyance of 2010 Transfer Water (Agreement)* for the conveyance of water pursuant to this temporary change. The Agreement includes a 6% (six percent) 'depletion loss' to protect the SWP and the United States Bureau of Reclamation's (USBR) Central Valley Project (CVP) from injury associated with the transfer. Transfer releases are measured at the Camp Far West Diversion Dam. Pursuant to the Agreement, SSWD will release 10,000 af from Camp Far West Diversion Dam on the same pattern as otherwise would have been delivered to landowners absent the transfer. SSWD will receive credit from DWR for the release of 9,400 af of water. The Agreement also includes a monitoring and reporting plan to address the impacts of additional groundwater pumping within SSWD.

1.4 Other Agency Consultation. Prior to submitting the petition to the State Water Board the petitioner submitted a copy to the Department of Fish and Game (DFG). DFG did not submit comments regarding the proposed temporary change. State Water Board staff contacted DFG staff in early June, 2010 to discuss the proposed temporary change and DFG did not identify any concerns regarding impacts to fish, wildlife, or other beneficial uses. State Water Board staff also provided notice of the petition to the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS). State Water Board staff announced the issuance of the public notice for this petition at the Delta Operations for Salmonids and Sturgeon Group (DOSS) teleconference call on May 18, 2010. NMFS and USFWS did not comment on the proposed temporary change or identify any concerns regarding potential impacts to fish, wildlife, or other instream beneficial uses.

2.0 BACKGROUND

2.1 Substance of SSWD's License. License 11118 (Application 14804) authorizes the diversion to storage of up to 58,370 af of water per annum from the Bear River between October 1 and June 30. License 11118 also authorizes the direct diversion from the Bear River of up to 330 cubic feet per second (cfs) between May 1 and September 1 of each year. The point of diversion to storage for License 11118 is located at the Camp Far West Dam. Additionally, the Camp Far West Diversion Dam (located about one mile downstream of the Camp Far West Dam) is an authorized point of direct diversion and redirection to storage.

The water is used for irrigation and domestic purposes within the authorized place of use, as well as incidental power generation. The authorized place of use under License 11118 is a net of 59,000 acres within a gross area of 65,796 acres within SSWD, a net of 4,180 acres within the Camp Far West Irrigation District (including 102 acres outside its boundaries served under contract), and a power generation plant located on SSWD's conveyance canal.

In order to protect fish resources downstream of the Camp Far West Diversion Dam, SSWD is required to bypass 25 cfs between April 1 and June 30 of each year and 10 cfs between July 1 and March 31 of the succeeding year. Additionally, SSWD (with other parties within the Bear River watershed) has entered

into an agreement (referred to as the Bear River Agreement) with DWR to meet the Bear River watershed's responsibilities for Bay-Delta flow objectives. This agreement requires SSWD to make up to 4,400 af of water available to DWR during dry and critically dry water years. SSWD's petition states that the water intended for transfer is in addition to the water released to DWR pursuant to the Bear River Agreement. Additional information regarding the Bear River Agreement is on file with the State Water Board under Application 14804.

2.2 Proposed Temporary Changes. The proposed transfer would temporarily add the SWP's Banks Pumping Plant and Barker Slough Pumping Plant as points of diversion to License 11118. The service area of the SWP would also be temporarily added to the place of use under License 11118. The SWP points of diversion and service area are identified on Maps 1878-1, 2, 3 & 4 on file with the State Water Board Division of Water Rights under Application 5629. Municipal and industrial, salinity control, fish and wildlife enhancement, and water quality control would be temporarily added as purposes of use under License 11118.

2.3 OCAP Biological Opinions. The operations of the Banks Pumping Plant are governed by Biological Opinions issued by USFWS and NMFS for the long-term operations of the CVP and the SWP (referred to as OCAP BOs). These Biological Opinions were issued in 2008 (USFWS) and 2009 (NMFS) and are based on CALSIM modeling of SWP and CVP operations. The modeling includes up to 600,000 af of water transfers during the period from July 1 through September 30 of each year. Additionally, the Reasonable and Prudent Alternatives (RPAs) contained in the BOs do not include export restrictions during the July 1 through September 30 period. The total amount of additional pumping due to all water transfers (including the subject transfer) in 2010 is less than the 600,000 af assumed in the modeling performed for the BOs. Accordingly, additional pumping at the Banks Pumping Plant associated with the subject transfer between July 1 and September 30, 2010, is in conformance with the OCAP BOs. This Order limits the proposed transfer to the period from July 1 through September 30, 2010.

3.0 PUBLIC NOTICE AND COMMENT TO THE PROPOSED TEMPORARY CHANGE

Public notice of the petition for temporary change (dated April 30, 2010) was provided via first class mail to interested parties and by publication in the Sacramento Bee on May 4, 2010. The California Water Impact Network and AquAlliance (CWINA) and the California Sportfishing Protection Alliance (CSPA) submitted timely comments regarding the proposed temporary change. State Water Board staff reviewed these comments and requested that SSWD address the portion of the comments regarding groundwater substitution. These comments, SSWD's additional information, and the State Water Board's responses are briefly summarized below. The comments and SSWD's additional information are also available for viewing online with this Order at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_orders/

3.1 Comments of the California Water Impact Network and AquAlliance. CWINA objects to the proposed temporary change based on the following concerns:

- a. The proposed temporary change will involve groundwater substitution and the petitioner has failed to show that the associated increase in groundwater pumping will have little to no effect on other parties within or downstream of SSWD. CWINA states that a local groundwater management planning effort undertaken in 2008 showed that groundwater elevations within SSWD (during 2007) had dropped between 5 and 35 feet from groundwater elevations in 1912-1913. CWINA alleges that the proposed groundwater substitution is contrary to Water Code section 1745.10. CWINA states that there is no approved groundwater management plan in Sutter County and that SSWD must determine that the proposed groundwater substitution will not create or contribute to long-term overdraft in the affected groundwater basin. CWINA asserts that SSWD has not provided sufficient analysis to make this determination. CWINA also notes that the proposed groundwater substitution may have third-party impacts.

- b. The petition does not provide an accounting of evaporative loss of water from SSWD's service area from July through September, as well as how much additional groundwater will be pumped to 'make up' for these evaporative losses.
- c. CWINA notes that SSWD petitioned for similar temporary changes in 2008 and 2009. CWINA believes that SSWD's series of transfers from 2008 through 2010 is a long-term transfer and should be subject to the requirements of Water Code section 1735 et seq. CWINA concludes that the proposed temporary change should be subject to the requirements of the California Environmental Quality Act (CEQA). CWINA notes that CEQA exemption based on the Governor's 2009 declaration of drought conditions was disallowed by the Alameda County Superior Court in March, 2010.
- d. CWINA asserts that the proposed temporary change would have adverse environmental impacts. CWINA states that the impacts of changes in flow timing, water temperatures, and water levels should be reviewed pursuant to CEQA. CWINA also asserts that the proposed temporary addition of the Barker Slough Pumping Plant and the Banks Pumping Plant would result in increased inflow to the Delta without a corresponding increase in Delta Outflow.

State Water Board Responses:

- a. The State Water Board requested additional information from SSWD regarding the issue of groundwater substitution. SSWD states that it adopted an updated Groundwater Management Plan (GWMP) in October, 2009 and that the proposed 2010 temporary water transfer is consistent with its GWMP. SSWD states that the hydrographs referenced by both CSPA and CWINA from Sutter County's Plan Advisory Group Meeting No. 3 (Slides 22 and 43, dated Oct 2008) do not indicate overdraft conditions; in contrast, they show long-term (at least 50 years) stabilized groundwater levels in most of the District and, in the extreme southeast corner of the District, ongoing recovery of groundwater levels over the last 30 years. The GWMP showed no indication of overdraft, as an analysis of groundwater level trends underlying the District and within Sutter County identified that groundwater levels are not continuously declining in any part of the District. SSWD states that observations of groundwater levels indicate that the groundwater basin did not experience abrupt changes that might have been attributable to the District's 2008 or 2009 water transfers. The proposed 2010 water transfer will be conducted consistent with the Groundwater and Surface Water Monitoring and Reporting Program and Mitigation Plan (Monitoring Plan) developed cooperatively with the Department of Water Resources. This Plan was in place for SSWD's previous water transfers, during which no third-party impacts were reported.

Based on this information, the proposed groundwater substitution is consistent with the GWMP and thus in conformance with the provisions of Water Code section 1745.10 (a). This Order requires SSWD to implement the Monitoring Plan to mitigate potential impacts of the proposed groundwater substitution on other legal users of water.

- b. SSWD's petition states that its landowners receive their base water supply from groundwater pumping and receive supplemental water from Camp Far West Reservoir. The petition states that landowners will not change their cropping patterns due to the transfer. Accordingly, evaporation from SSWD's service area will not change as a result of the proposed temporary change.
- c. The State Water Board has addressed the issue of a series of similar temporary changes in previous orders (see State Water Board Orders WR 2002-0005-DWR, WR 2005-0025-DWR, WR 2006-0010-DWR, and 2007-0012-DWR). As stated in these previous orders, the Water Code does not require petitioners for temporary change to make a diligent effort to seek approval for the proposed changes under other provisions of the Water Code (as is required for temporary urgency changes and temporary permits) or prohibit the approval of a series of similar temporary

changes. Accordingly, the proposed temporary change is not in violation of Water Code sections 1725 et seq. Additionally, Water Code section 1729 states that a temporary change is exempt from the requirements of CEQA. Finally, this order does not rely on a CEQA exemption contained in the Governor's 2009 Drought Emergency Proclamation.

- d. As stated in Section 1.4 of this Order, State Water Board staff discussed the proposed temporary change with DFG staff and DFG did not identify any concerns regarding impacts to fish, wildlife, or other beneficial uses. State Water Board staff announced the issuance of the public notice for this petition at the May 18, 2010 DOSS teleconference call, and NMFS and USFWS did not comment on the proposed temporary change or identify any concerns regarding potential impacts to fish, wildlife, or other instream beneficial uses. This Order limits the transfer period from July 1 through September 30, 2010 to ensure conformance with the OCAP BOs. Rediversion of water at the Banks Pumping Plant and Barker Slough Pumping Plant pursuant to this Order is subject to compliance by the pumping plant operators with all applicable biological opinions, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations. Rediversion of water at the Banks Pumping Plant pursuant to this Order is also subject to compliance by the operators with the objectives currently required of DWR and 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 points of diversion/rediversion, 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.

3.2 Comments of the California Sportfishing Protection Alliance. CSPA objects to the proposed temporary change based on the following:

- a. CSPA notes that SSWD petitioned for similar temporary changes in 2008 and 2009. CSPA states that SSWD's series of transfers from 2008 through 2010 should not be considered a temporary change and should be subject to the requirements of Water Code section 1735 et seq. CSPA concludes that the proposed temporary change should be considered a long-term transfer subject to the requirements of CEQA, and that the State Water Board should undergo a public trust analysis of License 11118.
- b. CSPA states that the petition lacks specificity regarding potential impacts of groundwater substitution associated with the proposed temporary change. The State Water Board should require greater specificity of the effects of the proposed transfer, especially on groundwater in the present year. CSPA states that information presented during the adoption of the Sutter County Groundwater Management Plan appears to suggest that there is significant groundwater overdraft in part of SSWD's service area.
- c. SSWD's petition requests that the temporary change be approved for one year, from July 1, 2010 through June 30, 2011. The transfer should be limited to the months of July, August and September, 2010.
- d. CSPA states that the State Water Board should not draw conclusions of substance regarding potential impacts of the proposed temporary change based on failure by DFG to comment. CSPA notes that DFG submitted substantial written and oral testimony in the Delta Flow Proceeding conducted by the State Water Board in January through March, 2010 regarding the dire condition of Bay-Delta fisheries, and also submitted extensive recommendations for greatly increased Delta outflow based on an equitable allocation of responsibility.

State Water Board Responses:

- a. The State Water Board has addressed the issue of a series of similar temporary changes in previous orders (see State Water Board Orders WR 2002-0005-DWR, WR 2005-0025-DWR,

WR 2006-0010-DWR, and 2007-0012-DWR). As stated in these previous orders, the Water Code does not require petitioners for temporary change to make a diligent effort to seek approval for the proposed changes under other provisions of the Water Code (as is required for temporary urgency changes and temporary permits) or prohibit the approval of a series of similar temporary changes. Accordingly, the proposed temporary change is not in violation of Water Code sections 1725 et seq. Additionally, Water Code section 1729 states that a temporary change is exempt from the requirements of CEQA. Finally, Water Code section 1727 subdivision (d) prohibits the State Water Board from modifying 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. Water Code section 1727 subdivision (e) prohibits the State Water Board from denying or placing conditions upon a temporary change to mitigate effects that are not caused by the temporary change. Thus, the State Water Board will not undergo a public trust analysis to modify or amend SSWD's license, or place conditions upon this temporary change to mitigate alleged affects of SSWD's ongoing operations.

- b. See the State Water Board response to CWINA in 3.1a., above.
- c. This Order limits the redirection of water at the Banks Pumping Plant and Barker Slough Pumping Plant to the period from July 1 through September 30, 2010, consistent with the OCAP BOs described in Section 2.3 of this Order.
- d. As stated in Section 1.4 of this Order, State Water Board staff discussed the proposed temporary change with DFG staff and DFG did not identify any concerns regarding impacts to fish, wildlife, or other beneficial uses. In this case, the absence of DFG comments is due to the lack of potential impacts associated with the proposed change. DFG's comments on the Delta Flow Criteria Informational Proceeding (Proceeding) address setting flow criteria for the protection of the Delta ecosystem. DFG's recommendations for the Delta Flow Criteria do not address potential impacts of the proposed temporary change. Additionally, the only recommendation submitted by DFG regarding the Proceeding for the time period from July 1 through September 30 is a minimum flow requirement of 6,000 cfs on the Sacramento River. The proposed temporary change will actually increase flow on the Sacramento River during this time period.

4.0 REQUIRED FINDINGS OF FACT

4.1 Availability of Water for Transfer. Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, § 1726.) Water Code section 1725 defines "consumptively used" to mean "the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion." The water proposed for transfer consists of surface water released from Camp Far West Diversion Dam, made available through increased groundwater pumping. To the extent that the additional groundwater pumped does not affect streamflow, this water represents an amount of water which would not be available for use in the downstream water supply. DWR has reviewed the transfer proposal and associated groundwater pumping and determined that 6% (six percent) of the additional groundwater pumping has the potential to affect streamflow. This Order limits the amount of water available for transfer to 94% (ninety-four percent) of the surface water released from Camp Far West Diversion Dam as a result of this transfer.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would be consumptively used in the absence of the proposed temporary change.

4.2 No Injury to Other Legal Users of Water. Before approving a temporary change due to a transfer or exchange of water pursuant to article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code, § 1727, subd. (b)(1).) DWR has reviewed the proposed transfer and determined that, with inclusion of the 6% (six percent) depletion factor described in Section 1.3 of this Order, the SWP (and CVP) will not be injured by impacts resulting from the additional groundwater pumping associated with the transfer. The Agreement also includes a monitoring and reporting plan to address the impacts of additional groundwater pumping within SSWD as a result of this transfer. This Order requires compliance with this portion of the Agreement.

This Order also includes terms and conditions to ensure that other legal users of water are not injured by potential water level and water quality impacts in southern Delta channels associated with the addition of the Banks Pumping Plant and the Barker Slough Pumping Plant as points of rediversion to License 11118.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed transfer will not injure any legal user of the water. I also find that the transfer of surface water that is replaced with groundwater pursuant to this Order meets the requirement of Water Code section 1745.10 subdivision (a). That section requires groundwater use associated with a groundwater substitution transfer to be in conformance with the approved groundwater management plan for the affected area.

4.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses. Water Code section 1729 exempts temporary changes involving the transfer of water from the requirements of the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000, et seq.) However, the State Water Board may approve a temporary change due to a transfer of water only if it determines that the proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).)

State Water Board staff discussed the proposed temporary change with DFG staff and DFG did not identify any concerns regarding impacts to fish, wildlife, or other beneficial uses. State Water Board staff announced the issuance of the public notice for this petition at the May 18, 2010 DOSS teleconference call, and NMFS and USFWS did not comment on the proposed temporary change or identify any concerns regarding potential impacts to fish, wildlife, or other instream beneficial uses. This Order limits the transfer period from July 1 through September 30, 2010 to ensure conformance with the OCAP BOs. Rediversion of water at the Banks Pumping Plant pursuant to this Order is subject to compliance by the pumping plant operators with all applicable biological opinions, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations. Rediversion of water at the Banks Pumping Plant pursuant to this Order is also subject to compliance by the operators with the objectives currently required of DWR and 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 points of diversion/rediversion, 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.

Rediversion of water at the Barker Slough Pumping Plant is subject to compliance by the pumping plant operators with all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(2) that the proposed transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use, purpose of use, and points of redirection under License 11118 (Application 14804) of the South Sutter Water District (SSWD) for the transfer of up to 10,000 acre-feet (af) of water is approved.

All existing terms and conditions of License 11118 remain in effect, except as temporarily amended by the following provisions:

1. The transfer/exchange is limited to the period commencing on July 1, 2010 and continuing through September 30, 2010.
2. Petitioner shall implement the monitoring and reporting plans contained in Exhibit 1 of the *Agreement Among the Department of Water Resources of the State of California, Antelope Valley-East Kern Water Agency and South Sutter Water District for Storage and Conveyance of 2010 Transfer Water* (Agreement) as a condition of transferring water pursuant to this Order.
3. The petitioner shall release water from Camp Far West Reservoir and thence Camp Far West Diversion Dam on the same pattern as otherwise would have been delivered to landowners absent the transfer. The amount of water transferred pursuant to this Order shall not exceed 94% (ninety-four percent) of the rate of additional releases from Camp Far West Diversion Dam for the transfer.
4. The place of use under License 11118 is temporarily expanded to include the service areas of the State Water Project (SWP) (as shown on Maps 1878-1, 2, 3 & 4 on file with Application 5629). Water transferred pursuant to this order shall only be delivered to the Antelope Valley-East Kern Water Agency, the Dudley Ridge Water District, the Kern County Water Agency, the Metropolitan Water District of Southern California, the Napa County Flood Control and Water Conservation District, the Oak Flat Water District, the Palmdale Water District, or the San Bernardino Valley Municipal Water District.
5. The SWP's Banks Pumping Plant and Barker Slough Pumping Plant are temporarily added as authorized points of redirection under License 11118.

Rediversion of water at the Banks Pumping Plant pursuant to this Order is subject to compliance by the pumping plant operators with all applicable biological opinions, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations. Rediversion of water at the Banks 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 points of diversion/rediversion, 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.

Rediversion of water at the Barker Slough Pumping Plant is subject to compliance by the pumping plant operators with all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

6. Municipal and industrial, salinity control, fish and wildlife enhancement, and water quality control are temporarily added as purposes of use under License 11118.
7. Within 90 days of the completion of the transfer, but no later than December 31, 2010, SSWD shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this

Order. The report shall include the following information:

- a. General locations where the transferred water was used;
- b. The daily average rate water is made available for transfer at the Camp Far West Diversion Dam pursuant to this Order; and
- c. Groundwater elevations within the vicinity of SSWD prior to the proposed transfer, as required by Exhibit 1 of the Agreement.

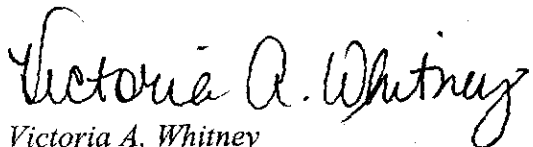
SSWD shall also develop and submit to the Deputy Director for Water Rights, by July 1 of each year starting in 2011, a map defining the groundwater elevations within the vicinity of SSWD, until such time as these elevations correspond to pre-transfer levels.

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 State Water 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 State Water Board 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 petitioner shall obtain authorization for an incidental take permit prior to construction or operation. Petitioner 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.

STATE WATER RESOURCES CONTROL BOARD



Victoria A. Whitney
Deputy Director for Water Rights

Dated: **JUL 01 2010**