

KRONICK
MOSKOVITZ
TIEDEMANN
& GIRARD
A LAW CORPORATION

STATE WATER RESOURCES
CONTROL BOARD

2008 AUG -5 PM 3:19

DIV. OF WATER RIGHTS
SACRAMENTO

KDM
A18085
A18087

HANSPETER WALTER
hwalter@kmtg.com

August 5, 2008

Ms. Victoria Whitney, Chief
Division of Water Rights
State Water Resources Control Board
1001 I Street
Post Office Box 2000
Sacramento, CA 95812-2000

Re: Permits Nos. 13856, 13858 (Applications Nos. 18085, 18087)
Petitions for Temporary Water Transfer of Water

Dear Ms. Whitney:

On Friday August 1, 2008, we submitted two urgency change petitions to facilitate a water transfer from Placer County Water Agency to Westlands Water District. We appreciate the prompt response from Ms. Katherine Mrowka of your staff informing us that such a petition, while available, would cost \$136,475 per petition and that alternatively a standard petition for a temporary water transfer under Water Code section 1725, would only cost \$7,997 per petition. The reason PCWA initially proceeded under the urgency statute is because this water transfer is urgent to both PCWA and Westlands Water District because there is a limited time in which to transfer this water and because of the severe drought affecting crops. However, Ms. Mrowka informed us that your staff is treating transfer applications as urgent and expediting petitions for temporary transfers. Accordingly, we are resubmitting our request for approval of the proposed water transfer on the standard petition.

Enclosed are an original and one copy of Placer County Water Agency's petitions for temporary transfer of water for the water right permits identified above. Accompanying these petitions are the following:

- a check for each petition of filing fees in the amount of \$7,247 made payable to the State Water Resources Control Board, which Ms. Mrowka indicated was the remaining amount due,
- the required Environmental Information Forms,
- a copy of Governor Schwarzenegger's Executive Order proclaiming a statewide drought,
- a copy of Governor Schwarzenegger's proclamation of a drought emergency in numerous counties in the San Joaquin Valley.

ATTORNEYS AT LAW

400 CAPITOL MALL, 27TH FLOOR SACRAMENTO, CALIFORNIA 95814 TELEPHONE (916) 321-4500 FAX (916) 321-4555

www.kmtg.com

Ms. Victoria Whitney Chief
Division of Water Rights
State Water Resources Control Board
August 5, 2008
Page 2

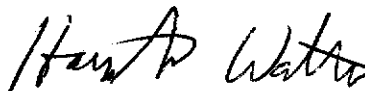
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- a copy of the Fresno County Board of Supervisor's resolution declaring a drought emergency in Fresno County, and
- a copy of the SWRCB's Order WR 2001-18-DWR approving a similar water transfer in 2001.

Due to the urgent nature of this petition, please do not hesitate to immediately call me at (916) 321-4500 regarding any further information you may need to expedite the processing of this request. Thank you very much for your assistance.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Law Corporation
Attorneys for Placer County Water Agency



Hanspeter Walter

HW/dg
Enclosures

cc: Placer County Water Agency
Westlands Water District

897544.1

State of California
 State Water Resources Control Board
DIVISION OF WATER RIGHTS
 P.O. Box 2000, Sacramento, CA 958 12-2000
 Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

STATE WATER RESOURCES
 CONTROL BOARD
 2008 AUG -5 PM 3:22
 DIV. OF WATER RIGHTS

**PETITION FOR TEMPORARY TRANSFER
 OF WATER/WATER RIGHTS**
(Water Code 1725)

Point of Diversion Point of Rediversion Place of Use Purpose of Use

Application No(s). 18085 Permit No. 13856 License No. _____
 Statement or Other No. _____

Present Holder and User of Water Right

<u>Placer County Water Agency</u>	<u>Hanspeter Walter</u>	<u>(916) 321-4500</u>
Person or Company name	Contact person	Telephone No.

<u>Kronick, Moskovitz, Tiedemann & Girard</u>	<u>Sacramento</u>	<u>CA</u>	<u>95814</u>
400 Capitol Mall, 27th Floor	City	State	Zip Code
<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>

hwalter@kmtg.com
 E-MAIL (For noticing purposes)

Co-petitioner

<u>Person or Company name</u>	<u>Contact person</u>	<u>Telephone No.</u>
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<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
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E-MAIL (For noticing purposes)

*check # 12637
 8/5/08
 \$ 7247.00
 DC*

Proposed New User

Westlands Water District			(559) 224-1523
Person or Company name	Contact person		Telephone No.
P.O. Box 6056	Fresno	CA	93703
Address	City	State	Zip Code

E-MAIL (For noticing purposes)

I (We) hereby petition the State Water Resources Control Board (State Water Board) under the provisions of Water Code (WC) section 1725 et seq. and in conformance with the specific requirements of California Code of Regulations (CCR) section 794 for temporary change(s) to the water right application(s) noted above for the purpose of transferring water. The changes are **shown on the accompanying map and described as follows:**

Placer County Water Agency ("PCWA") proposes to transfer a total of 20,000 acre feet of water currently stored in its Middle Fork Project ("MFP") reservoirs on the Rubicon and American Rivers to the Westlands Water District ("WWD") for irrigation use within the service area of WWD. To accomplish the transfer, temporary changes in the place of use and points of redirection under PCWA's MFP permits are needed to allow use of the transferred water in the WWD service areas.

Under the proposed transfer, PCWA would release water from its Middle Fork Project reservoirs into the Middle Fork and North Fork American Rivers from September 1 through December 31, 2008. The released water would flow into Folsom Reservoir. Through a Warren Act contract or other wheeling/storage agreement with the U.S. Bureau of Reclamation ("Reclamation"), WWD will withdraw the released water from Folsom Reservoir, when it can be redirected at the CVP's Tracy pumping plant either for immediate use in WWD or for storage in San Luis Reservoir for later use. PCWA had approximately 268,400 acre-feet ("AF") of water in storage in its Middle Fork Project reservoirs as of June 30, 2008 (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 nos. 13855, 13856, 13857, and 13858. Of this amount, 10,000 AF is contractually committed to be delivered to the City of Roseville; 13,000 AF of water is contractually committed to San Juan Water District; 13,000 AF of water is contractually committed to Sacramento Suburban Water District; and 5,000 AF is needed by PCWA for its own retail customers during the proposed release period of September 1 through December 31.

Of the remaining 227,400 acre feet, 64,300 acre feet will be used for power generation and 163,100 acre feet is reserved as carryover storage for 2009, in the absence of the transfer. Minimum storage under FERC License 2079 is 50,000 AF, leaving a surplus of 113,100 AF available for transfer. PCWA proposes to transfer only 20,000 AF of this surplus, in accordance with its power sale contract with Pacific Gas & Electric.

The 20,000 acre feet proposed to be released for transfer to WWD is currently in storage and would not be released in the absence of this transfer. Reclamation has agreed that the release of this water from storage is "new water" which would not otherwise be available to WWD. The proposed transfer would temporarily add Reclamation's Folsom Lake facility and the CVP Tracy pumping facility as new points of rediversion under Permits 18085 and 18087. The entire service area of WWD would be temporarily added to the place of use of Permits 18085 and 18087.

In order to refill Middle Fork Project reservoirs without injury to downstream vested rights following the transfer, PCWA will enter into a refill agreement with Reclamation, similar to refill agreements the PCWA and Reclamation have entered into on other PCWA transfers.

Amount of Water to be Transferred 20,000 Acre-feet (AF). If the basis of right is direct diversion, the average rate of diversion for the maximum 30 day period of use is N/A cubic feet per second (cfs).

Period of Transfer/Exchange (Not to exceed one year) September 1, 2008 to December 31, 2008.

Point of Diversion or Rediversion (Give coordinate distances from section corner or other ties as allowed by CCR section 715, and the 40-acre subdivision in which the present & proposed points lie.

Present:

A. PCWA's current points of diversion are located at California Grid Coordinates, Zone II, Mount Diablo B&M:

		N	E	Quart.	Sec.	T-N	R-E
Duncan Creek	Duncan Creek	538,130	2,431,040	NW SW	24	15	13
M.F. American River	French Meadows	530,100	2,434,250	NW NE	36	15	13
Rubicon River	Hell Hole	510,750	2,452,000	SW SE	16	14	14
M.F. American River	Ralston Interbay	498,137	2,397,300	NW NE	35	14	12
M.F. American River	Ralston Afterbay	490,160	2,357,100	NW NW	3	13	11
N.F. American River	Auburn	444,400	2,267,400	NE SW	23	12	8

B. PCWA's current points of rediversion are located at California Grid Coordinates, Zone II, Mount Diablo B&M:

		N	E	Quart.	Sec.	T-N	R-E
M.F. American River	French Meadows	530,100	2,434,250	NW NE	36	15	13
Rubicon River	Hell Hole	510,750	2,452,000	SW SE	16	14	14
M.F. American River	Ralston Interbay	498,137	2,397,300	NW NE	35	14	12
M.F. American River	Ralston Afterbay	490,160	2,357,100	NW NW	3	13	11
N.F. American River	Auburn	444,400	2,267,400	NE SW	23	12	8
American River	Folsom Dam	380,461	2,240,626	SW NE	24	10	7

Proposed:

C. Under the proposed transfer, the water would be rediverted at the CVP's Tracy Pumping Plant, which is situated within the SW ¼ of the SW ¼ of projected Section 31, T1S, R4E, MDB&M.

Folsom Reservoir is an alternate point of rediversion. Folsom Reservoir is within the NW ¼ of the SW 1.4 of Sec. 10, T10N R8E, MDBM, or California Coordinates W 121°05'534 N38°44'20.

Place of Use

Present: Western Placer County and northern Sacramento County

Proposed: Service area of Westlands Water District in Fresno and Kings Counties

Purpose of Use

Present: Domestic, Irrigation, Municipal & Industrial, Recreational

Proposed: Same

	<i>Season of Use</i>	<i>Direct Use (cfs)</i>	<i>Storage (ac-ft)</i>
Present:	<u>See project description.</u>		
Proposed:	<u>See project description.</u>		

The proposed transfer/exchange water is presently used or stored within the county/counties of: Placer and Sacramento Counties

The proposed transfer/exchange water will be placed to beneficial use within the following county/counties: Fresno and Kings Counties

1a. Would the transfer/exchange water have been consumptively used or stored in the absence of the proposed temporary change (See WC 1725)?

Yes. The water to be transferred is currently in storage in PCWA's Middle Fork Project reservoirs and would remain in storage absent this transfer.

1b. Provide an analysis which provides documentation that the amount of water to be transferred/exchanged would have been consumptively used or stored in the absence of the proposed temporary change.

PCWA had approximately 268,400 acre-feet ("AF") of water in storage in its Middle Fork Project reservoirs as of June 30, 2008 (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 nos. 13855, 13856, 13857, and 13858. Of this amount, 10,000 AF is contractually committed to be delivered to the City of Roseville; 13,000 AF of water is contractually committed to San Juan Water District; 13,000 AF of

water is contractually committed to Sacramento Suburban Water District; and 5,000 AF is needed by PCWA for its own retail customers during the proposed release period of September 1 through December 31.

Of the remaining 227,400 acre feet, 64,300 acre feet will be used for power generation and 163,100 acre feet is reserved as carryover storage for 2009, in the absence of the transfer. Minimum storage under FERC License 2079 is 50,000 AF, leaving a surplus of 113,100 AF available for transfer. PCWA proposes to transfer only 20,000 AF of this surplus, in accordance with its power sale contract with Pacific Gas & Electric.

Therefore, the 20,000 acre feet proposed to be released for transfer to WWD is currently in storage and would not be released in the absence of this transfer.

- 2a. If the point of diversion/rediversion is being changed, are there any person(s) taking water from the stream between the present point of diversion/rediversion and the proposed point?**

Yes.

- 2b. Are there any persons taking water from the stream between the present point of diversion or return flow and the proposed point of diversion or return flow?**

Yes.

- 2c. If the answer to 2a. or 2b. is yes, provide the name and address. Also provide the name and address of other persons known to you who may be affected by the proposed change.**

PCWA does not know the identities of the other legal users of water between its present point of diversion and storage at its MFP reservoirs and the proposed point of rediversion at the CVP's Tracy pumping facility. Also, because of the geographic scope of this water transfer, it is impractical to list all other legal users of water. Furthermore, flows downstream of PCWA points of diversion (i.e., MFP Reservoirs) and above points of rediversion will only be slightly increased by the release of water. Therefore, there will be no adverse effects on legal users of water between existing points of diversion and proposed points of rediversion.

- 3a. Provide an analysis of any changes in streamflow, water quality, timing of diversion or use, return flows, or effects on legal users resulting from the proposed transfer/exchange.**

It is not expected that any fish species will be adversely affected by the proposed additional releases from PCWA's reservoirs. Almost identical change petitions and transfers have been granted by the SWRCB in the past to support acquisition of water assets by the CAL-FED Environmental Water Account ("EWA"). For instance, in 2001 the SWRCB issued Order WR 2001-18-DWR, which approved the transfer of 20,000 AF from PCWA's Middle Fork Project reservoirs to the California Department of Water Resources to support the EWA. A copy of this order is attached as Attachment 4 to the

Environmental Information Form submitted with this petition. Notably, that order found that because "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." Similar circumstances exist this year, and if the proposed transfer causes any effect on fish, the effect should be the same beneficial effect noted by the SWRCB during the 2001 transfer. Also, the Environmental Impact Report for the EWA, cooperatively prepared by Reclamation, the Department of Water Resources ("DWR"), the Department of Fish and Game ("DFG"), the National Marine Fisheries Service ("NMFS") and the United States Fish and Wildlife Service ("USFWS"), analyzed the effects of PCWA transfers to the CVP and SWP. Relevant portions of that analysis are provided as Attachment 5 to the Environmental Information Form submitted with this petition. (For further details, please see the Environmental Information Form submitted with this petition.)

3b. State reasons you believe the proposed temporary change will not injure any legal user of the water, see Water Code Section 1727(b)(1).

No legal user of water will be injured because PCWA's transfer of water will only slightly increase, not decrease, streamflows below PCWA's MFP reservoirs. Any increase will be minor and will not cause any water flows to increase above normal seasonal levels, or to violate any regulatory requirements. The released water was stored by PCWA in accordance with its water rights and would not otherwise be available to any legal user of water. Additionally, PCWA will sign a reservoir refill agreement with Reclamation, ensuring that future refill of any storage space in PCWA's MFP reservoirs created by the transfer will not be with water that PCWA would not otherwise have been entitled to in accordance with its water rights.

4. Consult with staff of the applicable Regional Water Quality Control Board concerning the proposed temporary change. State the name and phone number of person(s) contacted. Summarize their opinion concerning compliance with CCR 794(b) and any Regional Board requirements.

Due to the urgent nature of this request, PCWA has been unable to contact the Regional Board staff, but intends to during the review process. PCWA has executed similar transfers in the past without any adverse change in water quality. If anything, the slight increase in flows in downstream reaches that could result from this transfer should slightly improve water quality by increasing streamflow and thus decreasing water temperatures, increasing dissolved oxygen levels, and decreasing the concentration of dissolved solids and other constituents of concern in downstream waters through increased volume.

5a. Consult with the California Department of Fish and Game pursuant to CCR 794(b) concerning the proposed temporary change. State the name and phone number of the person(s) contacted and their opinion concerning the potential effect(s) of the proposed temporary change on fish, wildlife, or other instream beneficial uses, and state any measures recommended for mitigation.

A copy of this petition was sent to the DFG North Central Regional Manager Sandy Morey at 1701 Nimbus Road, Rancho Cordova, CA 95670 Phone: (916) 358-2899, FAX: (916) 358-2899. Due to the urgent nature of this petition, PCWA has not had time to obtain DFG's opinion regarding the project, but will provide this information to the appropriate SWRCB staff when available. PCWA expects DFG to indicate that the transfer will not unreasonably affect fish or wildlife resources because very similar transfers have been done in the past with no adverse impacts identified by DFG. In fact, in the past DFG has advocated such transfers as part of the transfer of water to the CAL-FED Environmental Water Account ("EWA"). (See Environmental Information Form.)

5b. Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See WC 1707)?

No. However, the release of water from PCWA's reservoirs will provide additional flows in the Middle and North Fork American Rivers, and the Lower American River below Nimbus Dam when re-released by Reclamation, that may enhance biological resources in those reaches of river given the extreme drought conditions affecting California.

5c. Provide an analysis of potential effect(s) on fish, wildlife, or other instream beneficial uses which may arise from the proposed change.

See Environmental Information Form submitted with this petition.

5d. State reasons you believe the proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses, see Water Code Section 1727(b)(2).

See Environmental Information Form submitted with this petition.

6a. Does any agency involved in the proposed transfer/exchange rely upon section 382 of the Water Code to allow the delivery of water outside of the agency's service area?

No.

6b. If yes, provide an analysis of the effect of the proposed transfer/exchange on the overall economy of the area from which the water is being transferred.

N/A.


A TRANSFER/EXCHANGE UNDER WATER CODE SECTION 1725 INVOLVES ONLY THE AMOUNT OF WATER WHICH WOULD HAVE BEEN CONSUMPTIVELY USED OR STORED IN THE ABSENCE OF THE PROPOSED TEMPORARY CHANGE. A CHANGE WILL BE EFFECTIVE FOR A PERIOD OF ONE YEAR OR LESS, BEGINNING ON THE APPROVAL OF THIS PETITION OR ON SUCH DATE OTHERWISE SPECIFIED BY THE

SWRCB ORDER. FOLLOWING EXPIRATION OF THIS TEMPORARY CHANGE, ALL RIGHTS AUTOMATICALLY REVERT TO THE PRESENT HOLDER BY OPERATION OF LAW.

I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated: August 5, 2008, at Sacramento, California.

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD,
Attorneys for Placer County Water Agency

By: 
Hanspeter Walter

400 Capitol Mall, 27th Floor
Sacramento, CA 95814
Telephone No.: (916) 321-4500

NOTE: This petition shall be accompanied by all information and fees required by this form and W.C. Section 1725 et seq., before the SWRCB will consider acceptance of the petition requesting a temporary change to facilitate a transfer/exchange.

Proof of Service: Compliance with W.C. section 1726(c) shall be met by the filing of copies of the proof of service to the Department of Fish and Game and to the board of supervisors of the counties where the water is currently used and the counties to which water is proposed to be transferred.

Fees: The following fees must accompany the petition before the petition will be accepted.

1. A minimum filing fee of \$100, for each application listed in the petition, shall be submitted with the petition (Water Code section 1547). The fee is made payable to the State Water Resources Control Board.
 - a) Water Code section 1547.1 requires an additional fee of 25% of the amount computed by using the fee schedule in Article 1 (commencing with Water Code section 1525) for use of water outside of the basin from which the water transfer originates. The fee is based on that portion of water transferred under the existing direct diversion or storage right(s) for each application identified in the petition. For direct diversion rights, the rate is typically computed based on the average rate of diversion (cfs) for the maximum 30-day period of use (AF).
 - b) If the petitioner relies on Water Code section 382, the total filing fee shall be based on the amount necessary to cover the reasonable costs of the SWRCB to evaluate and process

the petition (Water Code section 386). Please contact the Division if you would like an estimate of the potential cost.

2. An \$850 environmental filing fee, made payable to the Department of Fish and Game, must accompany a petition for change (Public Resources Code 10005).

**INFORMATION REGARDING
FILING FEES FOR
TEMPORARY TRANSFERS**

INITIAL FILING FEE

Initial filing fee = \$100 X (number of Applications)

IN BASIN WATER RIGHT TRANSFER FEE

No Additional Fee

OUT OF BASIN WATER RIGHT TRANSFER FEE

OUT OF BASIN TRANSFER FEE = 25% of the direct diversion and/or storage fee calculated below.

For direct diversion water rights: each cubic foot per second (cfs) or fractional cfs rounded up to the next whole cfs to be transferred shall be assessed the following fees:

from 0 to 100 cfs	_____ cfs	@ \$10.00 each
over 100 to 500 cfs	_____ cfs	@ \$12.00 each
over 500 to 2,000 cfs	_____ cfs	@ \$15.00 each
over 2,000 cfs	_____ cfs	@ \$20.00 each

Where the amount to be transferred is identified in acre-feet, the rate of diversion 'cfs' shall be computed based on the average rate of direct diversion for the maximum 30-day period of use in which water is either developed or transferred, which ever is greater.

Example: If the amount of the water right is 6 cfs, by direct diversion from May 1 through October 31; and, the amount to be transferred will be 1,500 acre-feet (af) for the year; and, the maximum amount of water delivered is 300 af during July;

The fee is based on: $\frac{300 \text{ af}}{30 \text{ days}} \times \frac{1}{1.98 \text{ af/cfs}} = 5.05 \text{ cfs}$, which rounds up to 6 cfs

Out of Basin Direct Diversion Fee = 6 CFS X \$100.00/cfs X (number of applications)

For storage water rights: each acre-foot (af) or fractional af, rounded up to the next whole af of storage to be transferred shall be assessed the following fees:

from 0 to 1,000 afa	_____ afa	@ \$0.10 each
over 1,000 to 5,000 afa	_____ afa	@ \$0.12 each
over 5,000 to 100,000 afa	_____ afa	@ \$0.15 each
over 100,000 afa	_____ afa	@ \$0.20 each

Example: If the amount of the water right is 100 acre-feet (af) of storage; and, the amount to be transferred will be 50 af of storage;

The fee is based on: 50 af
Out of Basin Storage Fee = 50 af X \$0.10/af X (number of applications)

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Sacramento County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 400 Capitol Mall, 27th Floor, Sacramento, California 95814. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On August 5, 2008, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**PETITION FOR TEMPORARY TRANSFER OF
WATER/WATER RIGHTS and ENVIRONMENTAL
INFORMATION FOR PETITIONS**

in a sealed envelope, postage fully paid, addressed as follows:

Sandy Morey, Manager
North Central Region
California Department of Fish and Game
1701 Nimbus Road
Rancho Cordova, CA 95670

Clerk of the Board of Supervisors
County of Placer
175 Fulweiler Avenue
Auburn, CA 95603

Clerk of the Board of Supervisors
County of Fresno
2281 Tulare Street
Fresno, CA 93721

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 5, 2008, at Sacramento, California.



Do Gentry

EXHIBIT 1

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PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY
AND REQUEST FOR THE GOVERNOR TO PROCLAIM A STATE OF EMERGENCY
AND REQUEST FOR A PRESIDENTIAL DECLARATION
AND REQUEST FOR STATE AND FEDERAL ASSISTANCE
BY THE BOARD OF SUPERVISORS
COUNTY OF FRESNO, STATE OF CALIFORNIA

IN THE MATTER OF THE)
2008 DROUGHT CONDITIONS)

RESOLUTION

WHEREAS, the Board of Supervisors does hereby find that a dire situation, created by conditions of extreme peril to the safety of persons and property have arisen within said County, evidenced by idling of crop land and production loss of agricultural crops, caused by a statewide drought and water delivery restrictions commencing on the 29th day of May, 2008 and escalating in accumulated impact on this County; and

WHEREAS, statewide rainfall has been below normal in 2007 and 2008; and

WHEREAS, California is experiencing critically dry water conditions in the Sacramento and San Joaquin River basins and the statewide 2008 runoff forecast is estimated to be 41 percent below average; and

WHEREAS, diversions from the Sacramento-San Joaquin River Delta (Delta) for the State Water Project and federal Central Valley Project (CVP) are being severely restricted due to various factors including federal court actions to protect Endangered Species Act listed fish species, resulting in very limited Delta pumping operations and restricted San Luis Reservoir releases during the period of peak crop demands of June, July and August 2008; and

WHEREAS, water storage in many of the State's major reservoirs is far below normal, including those that supply the State Water Project (SWP) resulting in reduced allocations to the users of 35 percent; and

1 WHEREAS, the federal Central Valley Project is similarly constrained to allow only 40
2 percent allocations of contracted amounts; and

3 WHEREAS, the pumping and reservoir restrictions will postpone the use of most of the
4 allocations until after the crop season is over; and

5 WHEREAS, these water delivery reductions will cause Fresno County farmers to idle
6 thousands of acres of crop land and production loss of seasonal crops; and

7 WHEREAS, in 2008 Fresno County has experienced the driest spring on record resulting in
8 increased agricultural irrigation demand and reduced rangeland grasses; and

9 WHEREAS, the lack of available water supplies during the months of June through August,
10 2008 has resulted in the rationing of water by affected Fresno County water districts to their
11 member farmers and these further reductions are resulting in abandonment of current planted
12 seasonal crops and permanent crops; and

13 WHEREAS, it is anticipated that the cumulative crop reductions will result in the loss of jobs
14 in Fresno County communities and the significant loss of direct and indirect crop revenue has
15 negatively impacted Fresno County businesses' and Fresno County governments' tax revenue;
16 and

17 WHEREAS, substantial economic impact to agricultural crops, the industry that supports
18 agriculture and the people who work in the agricultural industry are anticipated; and

19 WHEREAS, local resources are inadequate to cope with the effects of said emergency and
20 the combined forces of other political subdivisions of the State are required to assist the County to
21 combat the effects of said emergency;

22 NOW THEREFORE, IT IS HEREBY PROCLAIMED AND ORDERED by the Board of
23 Supervisors of the County of Fresno, State of California, in accordance with state law, that a local
24 emergency does exist throughout said County;

25 IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local
26 emergency the powers, functions, and duties for the emergency organization of this County
27
28

1 shall be those prescribed by state law, ordinances and resolutions of this County, and by the
2 County of Fresno Operational Area Master Emergency Services Plan, as approved by the Board
3 of Supervisors on May 19, 1998; and

4 IT IS FURTHER PROCLAIMED AND ORDERED that said local emergency shall be
5 deemed to continue to exist until its termination is proclaimed by the Board of Supervisors of the
6 County of Fresno, State of California; and

7 IT IS FURTHER PROCLAIMED AND ORDERED that a copy of this resolution be forwarded
8 to the Governor of California confirming the request by the Board of Supervisors that the Governor
9 proclaim the County of Fresno to be in a state of emergency; and that the Governor request a
10 Presidential Declaration; and further that the Governor request any and all State and Federal
11 assistance programs to provide relief to the growers, individuals, businesses, public agencies and
12 private agencies that were harmed by this disaster; and

13 IT IS FURTHER REQUESTED that Governor Schwarzenegger relax the water quality
14 standards to permit blending of ground water with CVP/SWP water in order to increase the water
15 supply; and

16 IT IS FURTHER REQUESTED that Governor Schwarzenegger petition President Bush's
17 administration to take immediate action to increase the CVP water supply; and

18 IT IS FURTHER ORDERED that the Fresno County Department of Agriculture request a
19 U.S. Department of Agriculture Secretarial Disaster Declaration; and

20 IT IS FURTHER ORDERED that a copy of this resolution be forwarded to the state Director
21 of the Office of Emergency Services.

22 IT IS FURTHER RESOLVED that Bart Bohn, County Administrative Officer, as the
23 Emergency Services Director is designated as the local Hazard Mitigation Coordinator of the
24 County of Fresno for the purpose of assessing damage within said County and consulting with
25 federal or state survey teams about hazard mitigation actions; and

26 IT IS FURTHER RESOLVED that Bart Bohn, County Administrative Officer, as the
27 Emergency Services Director and Vicki Crow, Auditor-Controller/Treasurer-Tax Collector, are
28 hereby designated as the authorized representatives for disaster assistance of the County of

1 Fresno for the purpose of receipt, processing, and coordination of all inquiries and requirements
2 necessary to obtain available state and federal assistance.

3
4 THE FOREGOING was passed and adopted by the following vote of the
5 Board of Supervisors of the County of Fresno this 6th day of June, 2008, to-wit

6 AYES: Supervisors Larson, Waterston, Anderson, Case, Perea
7 NOES: None
8 ABSENT: None

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CHAIRMAN, Board of Supervisors

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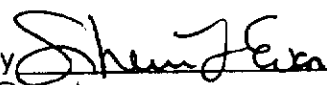
ATTEST:

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13 BERNICE E. SEIDEL, CLERK
14 BOARD OF SUPERVISORS

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By 
Deputy

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Item No. 1
Resolution No. 08-253

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EXHIBIT 2



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

PRESS RELEASE

06/04/2008 GAAS:307:08 FOR IMMEDIATE RELEASE

Governor Schwarzenegger Proclaims Drought and Orders Immediate Action to Address Situation

Following two straight years of below-average rainfall, very low snowmelt runoff and the largest court-ordered water transfer restrictions in state history, Governor Arnold Schwarzenegger today proclaimed a statewide drought and issued an Executive Order, which takes immediate action to address a dire situation where numerous California communities are being forced to mandate water conservation or rationing. The lack of water has created other problems, such as extreme fire danger due to dry conditions, economic harm to urban and rural communities, loss of crops and the potential to degrade water quality in some regions.

"For the areas in Northern California that supply most of our water, this March, April and May have been the driest ever in our recorded history," Governor Schwarzenegger said. "As a result, some local governments are rationing water, developments can't proceed and agricultural fields are sitting idle. We must recognize the severity of the crisis we face, so I am signing an Executive Order proclaiming a statewide drought and directing my Department of Water Resources and other entities to take immediate action to address the situation."

Today's Executive Order directs the Department of Water Resources (DWR) to:

- Facilitate water transfers to respond to emergency shortages across the state.
- Work with local water districts and agencies to improve local coordination.
- Help local water districts and agencies improve water efficiency and conservation.
- Coordinate with other state and federal agencies and departments to assist water suppliers, identify risks to water supply and help farmers suffering losses.
- Expedite existing grant programs to help local water districts and agencies conserve.

This Executive Order also encourages local water districts and agencies to promote water conservation. They are encouraged to work cooperatively on the regional and state level to take aggressive, immediate action to reduce water consumption locally and regionally for the remainder of 2008 and prepare for potential worsening water conditions in 2009. As part of the Executive Order, DWR will work with locals to conduct an aggressive water conservation and outreach campaign.

Last month, DWR's final snow survey of 2008 showed snowpack water content at only 67 percent of normal and the runoff forecast at only 55 percent of normal. As conditions continue to worsen across California, it underscores the state's need for infrastructure improvements to capture excess water in wet years to use in dry years like this one.

"This drought is an urgent reminder of the immediate need to upgrade California's water infrastructure. There is no more time to waste because nothing is more vital to protect our economy, our environment and our quality-of-life. We must work together to ensure that California will have safe, reliable and clean water not only today but 20, 30 and 40 years from now.

Beginning with the first Strategic Growth Plan in 2006, the Governor called for a comprehensive plan to address California's urgent water needs. The Governor renewed that call in his 2008-09 budget by proposing an \$11.9 billion water bond for water management investments that will address population growth, climate change, water supply reliability and environmental needs. Specifically, the bond includes:

- Water Storage: \$3.5 billion dedicated to the development of additional storage.

- Delta Sustainability: \$2.4 billion to help implement a sustainable resource management plan for the Delta.
- Water Resources Stewardship: \$1.1 billion to implement river restoration projects.
- Water Conservation: \$3.1 billion to increase water use efficiency.
- Water Quality Improvement: \$1.1 billion for efforts to reduce the contamination of groundwater.
- Other Critical Water Projects: \$700 million for water recycling, hillside restoration for areas devastated by fire and removal of fish barriers on key rivers and streams.

The Governor is committed to gaining consensus on a bipartisan legislative solution for California's future.

- In February, Governor Schwarzenegger sent a letter to Senators Perata, Steinberg, and Machado clarifying the administrative actions under consideration as part of a comprehensive solution in the Delta.
- Also in February, the Governor hosted a meeting with Senator Feinstein, legislative leaders and key stakeholders to discuss rebuilding California's water infrastructure.
- In December 2007, the Governor applauded the work of the Delta Vision Blue Ribbon Task Force and committed to continuing to work with legislative leaders on a comprehensive water solution.
- In September 2007, the Governor introduced a comprehensive water infrastructure proposal during the legislative special session, building off of the plan he introduced in January 2007 as part of the 2007-08 budget.
- In July 2007, the Governor directed DWR to take immediate action to improve conditions in the Delta, to help restore its natural habitat and protect the Delta smelt and other species.

Text of the Executive Order:

EXECUTIVE ORDER S-06-08

WHEREAS Statewide rainfall has been below normal in 2007 and 2008, with many Southern California communities receiving only 20 percent of normal rainfall in 2007, and Northern California this year experiencing the driest spring on record with most communities receiving less than 20 percent of normal rainfall from March through May; and

WHEREAS California is experiencing critically dry water conditions in the Sacramento and San Joaquin River basins and the statewide runoff forecast for 2008 is estimated to be 41 percent below average; and

WHEREAS water storage in many of the state's major reservoirs is far below normal including Lake Oroville, which supplies the State Water Project, at 50 percent of capacity, Lake Shasta at 61 percent of capacity and Folsom Lake at 63 percent of capacity; and

WHEREAS the Colorado River Basin has just experienced a record eight-year drought resulting in current reservoir storage throughout the river system reduced to just over 50 percent of total storage capacity; and

WHEREAS climate change will increasingly impact California's hydrology and is expected to reduce snowpack, alter the timing of runoff and increase the intensity and frequency of droughts in the western United States; and

WHEREAS diversions from the Sacramento-San Joaquin River Delta for the State Water Project (SWP) and federal Central Valley Project (CVP) are being greatly restricted due to various factors including federal court actions to protect fish species, resulting in estimated SWP deliveries of only 35 percent, and CVP deliveries of only 40 percent, of local agencies' requested amounts for 2008; and

WHEREAS dry conditions have created a situation of extreme fire danger in California, and these conditions resulted in devastating fires last year, resulting in proclamations of emergency for the counties of El Dorado, Los Angeles, Orange, Ventura, Santa Barbara, Riverside, San Bernardino, Santa Clara, Santa Cruz and San Diego, with wildfires there causing millions of dollars in damages; and

WHEREAS on May 9, 2008, I signed an Executive Order directing various agencies and departments within my administration to respond to these dry conditions and prepare for another potentially severe wildfire season; and

WHEREAS the current drought conditions are harming urban and rural economies, and the state's overall economic prosperity; and

WHEREAS some communities are restricting new development and mandating water conservation and rationing, and some farmers have idled permanent crops and are not planting seasonal crops this year, because of unreliable or uncertain water supplies; and

WHEREAS recent supply reductions have jeopardized agricultural production in the San Joaquin Valley; an

WHEREAS it is not possible to predict the duration of present drought conditions; and

WHEREAS while communities throughout the state have worked to significantly improve their drought preparedness, the readiness to cope with current and future drought conditions varies widely; and

WHEREAS immediate water conservation measures are needed this year to address current conditions and prepare for a dry 2009; and

WHEREAS the State of California is committed to enhancing drought response and drought preparedness and to protecting the state's economy and its environment

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, do hereby proclaim a condition of statewide drought, and in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby issue the following orders to become effective immediately

IT IS HEREBY ORDERED that the Department of Water Resources (DWR) shall take immediate action to address the serious drought conditions and water delivery limitations that currently exist in California, and that are anticipated in the future, by taking the following actions:

1. Expedite existing grant programs for local water districts and agencies for new or ongoing water conservation and water use reduction programs and projects that are capable of timely implementation to ease drought conditions in 2008 or 2009.
2. Facilitate water transfers in 2008 to timely respond to potential emergency water shortages and water quality degradation, and prepare to operate a dry year water purchasing program in 2009.
3. In cooperation with local water agencies and other water-related organizations, conduct an aggressive water conservation and outreach campaign.
4. Immediately convene the Climate Variability Advisory Committee to prioritize and expedite drought-related climate research that will assist in responding to current drought conditions and help prepare for a potentially dry 2009.
5. Provide technical assistance for drought response to local water agencies and districts for improving landscape and agricultural irrigation efficiencies, leak detection and other measures as appropriate.
6. Review the water shortage contingency elements of Urban Water Management Plans and work cooperatively with water suppliers to implement improvements.
7. Coordinate and implement State Water Project operations and water exchanges to alleviate critical impacts to San Joaquin Valley agriculture.
8. Implement additional actions to facilitate drought response, preparedness and promote water conservation in 2008 and 2009, and which will contribute to achieving long term reductions in water use.

IT IS FURTHER ORDERED that DWR and the Department of Public Health (DPH) prioritize processing of loan and grant contracts for water suppliers and public water systems demonstrating drought-related hardships.

IT IS FURTHER ORDERED that DWR and DPH coordinate with the State Office of Emergency Services and local offices of emergency services to identify public water systems at risk of experiencing health and safety impacts due to drought conditions and water delivery limitations, and to mitigate such impacts.

IT IS FURTHER ORDERED that DWR and DPH work with local water districts to evaluate system interconnections among the state's large water purveyors, review the status or availability of mutual aid agreements among those large water purveyors, and work with the parties to those mutual aid agreements to correct any deficiencies that restrict the movement of water in an emergency situation

IT IS FURTHER ORDERED that DWR coordinate with the California Public Utilities Commission to identify investor-owned water utility systems at risk of experiencing health and safety impacts due to drought conditions and water delivery limitations, and to mitigate such impacts.

IT IS FURTHER ORDERED that DWR work with the Department of Food and Agriculture (CDFA), the United States Department of Agriculture and the United States Bureau of Reclamation to identify potential federal funding

for local water agencies and farmers to facilitate the rapid installation of best available irrigation management and conservation systems.

IT IS FURTHER ORDERED that the CDFA work with county Agricultural Commissioners and others as necessary to identify and gather data on crop losses and other adverse economic impacts caused by the drought and, when necessary, transmit that information to the appropriate federal and state agencies.

IT IS FURTHER STRONGLY ENCOURAGED that local water agencies and districts work cooperatively on the regional and state level to take aggressive, immediate action to reduce water consumption locally and regionally for the remainder of 2008 and prepare for potential worsening water conditions in 2009.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Executive Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Executive Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of June 2008.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State

EXHIBIT 3



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR**PRESS RELEASE**

06/12/2008 GAAS:331:08 FOR IMMEDIATE RELEASE

Governor Schwarzenegger Proclaims State of Emergency for Central Valley Region and Takes Action to Address Urgent Water Needs

Governor Arnold Schwarzenegger today proclaimed a state of emergency in the following nine Central Valley counties due to severe water shortages: Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern. When the Governor issued his Executive Order last week declaring a statewide drought, he directed his state agencies and departments to take immediate action to address the serious drought conditions and water delivery reductions that exist in California, and today's announcement builds on those actions.

"Just last week, I said we would announce regional emergencies wherever the state's drought situation warrants them, and in the Central Valley, an emergency proclamation is necessary to protect our economy and way of life," Governor Schwarzenegger said. "Central Valley agriculture is a \$20 billion a year industry. If we don't get them water immediately the results will be devastating. Food prices, which are already stretching many family budgets, will continue to climb and workers will lose their jobs-everyone's livelihood will be impacted in some way."

The Governor's emergency proclamation today is based in part on an assessment of the full impact that additional, unexpected cuts recently made by federal water officials to San Joaquin Valley farmers have had in the middle of the growing season. As a result, the Governor's proclamation directs the Department of Water Resources to work with the U.S. Bureau of Reclamation to deliver more water now through the State Water Project when it's needed most. It also orders his Department of Water Resources to transfer groundwater through the California Aqueduct to benefit farmers in the affected counties and the State Water Resources Control Board to review water transfers as quickly as possible.

"We would not be talking about any of this if over the last 40 years California had invested in our water infrastructure. Today we are taking aggressive action to address an immediate crisis, but a comprehensive solution is the only answer to addressing our drought situation in the long term," Governor Schwarzenegger said.

Beginning with the first Strategic Growth Plan in 2006, the Governor called for a comprehensive plan to address California's urgent water needs. The Governor renewed that call in his 2008-09 budget by proposing an \$11.9 billion water bond for water management investments that will address population growth, climate change, water supply reliability and environmental needs. Specifically, the bond includes:

- **Water Storage:** \$3.5 billion dedicated to the development of additional storage.
- **Delta Sustainability:** \$2.4 billion to help implement a sustainable resource management plan for the Delta.
- **Water Resources Stewardship:** \$1.1 billion to implement river restoration projects.
- **Water Conservation:** \$3.1 billion to increase water use efficiency.
- **Water Quality Improvement:** \$1.1 billion for efforts to reduce the contamination of groundwater.
- **Other Critical Water Projects:** \$700 million for water recycling, hillside restoration for areas devastated by fire and removal of fish barriers on key rivers and streams.

The Governor is committed to gaining consensus on a bipartisan legislative solution for California's future.

- In February, Governor Schwarzenegger sent a letter to Senators Perata, Steinberg, and Machado clarifying the administrative actions under consideration as part of a comprehensive solution in the Delta.
- Also in February, the Governor hosted a meeting with Senator Feinstein, legislative leaders and key stakeholders to discuss rebuilding California's water infrastructure.

- In December 2007, the Governor applauded the work of the Delta Vision Blue Ribbon Task Force and committed to continuing to work with legislative leaders on a comprehensive water solution.
- In September 2007, the Governor introduced a comprehensive water infrastructure proposal during the legislative special session, building off of the plan he introduced in January 2007 as part of the 2007-08 budget.
- In July 2007, the Governor directed DWR to take immediate action to improve conditions in the Delta, to help restore its natural habitat and protect the Delta smelt and other species.

The full text of the Governor's proclamation is below:

**A PROCLAMATION
OF A STATE OF EMERGENCY**

WHEREAS on June 4, 2008, I issued an Executive Order proclaiming a statewide drought; and

WHEREAS in my June 4 Executive Order, I called on all Californians to conserve water, and I directed state agencies and departments to take immediate action to address the serious drought conditions and water delivery reductions that exist in California; and

WHEREAS in issuing my June 4 Executive Order, I said that I would proclaim a state of emergency in any county where emergency conditions exist due to the drought, in an effort to protect the people and property of California, including the businesses, workers and communities that depend on water deliveries for their livelihood and survival; and

WHEREAS since issuing my June 4 Executive Order, I have determined that emergency conditions exist in Central Valley counties caused by the continuing drought conditions in California and the reductions in water deliveries; and

WHEREAS statewide rainfall has been below normal in 2007 and 2008, with many Southern California communities receiving only 20 percent of normal rainfall in 2007, and Northern California this year experiencing the driest spring on record with most communities receiving less than 20 percent of normal rainfall from March through May; and

WHEREAS California is experiencing critically dry water conditions in the Sacramento and San Joaquin River basins and the statewide runoff forecast for 2008 is estimated to be 41 percent below average; and

WHEREAS water storage in many of the reservoirs serving the Central Valley are far below normal including San Luis reservoir which is at 53 percent of capacity, Lake Shasta at 61 percent of capacity and Lake Oroville at just 50 percent of capacity; and

WHEREAS diversions from the Sacramento-San Joaquin River Delta for the State Water Project (SWP) and federal Central Valley Project (CVP) are being greatly restricted due to various factors including federal court actions to protect fish species, resulting in estimated SWP deliveries of only 35 percent, and CVP deliveries of only 40 percent, of local agencies' requested amounts for 2008; and

WHEREAS the United States Bureau of Reclamation (USBR) recently announced an unexpected reduction in its water supply allocations to Central Valley Project (CVP) contractors within the San Luis Delta Mendota Water Agency Service Area from 45 percent to 40 percent; and

WHEREAS this unanticipated reduction will result in crop loss, increased unemployment and other direct and indirect economic impacts to Central Valley counties; and

WHEREAS water rationing has been ordered by the City of Long Beach, the City of Roseville, and the East Bay Municipal Utility District, which serves 1.3 million people in Alameda and Contra Costa counties; and

WHEREAS on June 10, 2008, the Metropolitan Water District of Southern California, which supplies water for 26 cities and water agencies serving 18 million people in six southern California counties, declared a water supply alert in an effort to sustain their water reserves; and

WHEREAS some communities are also restricting new residential and commercial development because of unreliable or uncertain water supplies, and this is causing harm to the economy; and

WHEREAS dry conditions have created a situation of extreme fire danger in California, and these conditions resulted in devastating fires last year, with wildfires causing millions of dollars in damages; and

WHEREAS San Joaquin Valley agriculture constitutes a \$20 billion industry, and serves as an essential part of California's economy; and

WHEREAS the lack of water will cause devastating harm to the communities that rely on this important industry, as growers lack sufficient water to finish the growing season, are forced to abandon planted crops, and are forced to dismiss workers; and

WHEREAS the lack of water is causing agricultural workers in the Central Valley to lose their jobs, resulting in a loss of livelihood, an inability to provide for their families, and increased negative social and economic impacts on the communities that depend on them; and

WHEREAS San Joaquin Valley agricultural production and processing industries account for almost 40 percent of regional employment, and every dollar produced on the farm generates more than three dollars in the local and regional economies, and the loss of these dollars is devastating communities; and

WHEREAS almost 20 percent of San Joaquin Valley residents already live in poverty, and it consistently ranks as the top region in the nation in foreclosures; and

WHEREAS as workers lose their jobs because of the lack of water, they often move their families away from the communities, resulting in further harm to local economies, lower enrollments in local schools and reduced funding for schools; and

WHEREAS the city of Fresno received only 54 percent of normal rainfall in 2007 and 76 percent of normal in 2008, and had its fourth driest spring on record; and

WHEREAS on June 11, 2008, the Fresno County Board of Supervisors passed a resolution declaring a local state of emergency due to the severe drought conditions, stating among other things that the lack of water has resulted in water rationing by Fresno County water districts; that these reductions are causing abandonment of current planted seasonal crops and permanent crops; that the cumulative crop reductions will result in job losses in Fresno County communities; that the loss of revenue has negatively impacted Fresno County businesses and Fresno County government tax revenue; and that there will be a substantial negative economic impact to the community; and

WHEREAS the Fresno County Board of Supervisors also requested that I declare a state of emergency due to the drought conditions; and

WHEREAS the Central Valley cities of Bakersfield, Modesto, Stockton, and Sacramento experienced their driest spring on record in 2008, and additional Central Valley counties are experiencing similar emergency conditions caused by drought and lack of water deliveries; and

WHEREAS to date, almost \$65 million in losses have been reported by 19 counties due to reduced rangeland grasses that are used to graze livestock, and those reductions have been caused by drought; and

WHEREAS statewide and local conditions collectively have led to the rationing of water by affected water districts to their member farmers and these further reductions are resulting in abandonment of current planted seasonal crops and permanent crops; and

WHEREAS the crop losses will cause increased food prices, which will negatively impact families and economies throughout California and beyond our borders; and

WHEREAS the lack of water deliveries has forced local communities to draw water from their emergency water reserves, putting communities at risk of further catastrophe if emergency reserves are depleted or cut off; and

WHEREAS the circumstances of the severe drought conditions, by reason of their magnitude, are beyond the control of the services, personnel, equipment and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat; and

WHEREAS under the provisions of section 8558(b) of the California Government Code, I find that conditions of extreme peril to the safety of persons and property exist within the counties of Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern, caused by the current and continuing severe drought conditions.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, in accordance with the authority vested in me by the California Constitution and the California Emergency Services Act, and in particular, section 8625 of the California Government Code, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist within the counties of Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern.

IT IS HEREBY ORDERED that all agencies of the state government utilize and employ state personnel, equipment and facilities for the performance of any and all activities consistent with the direction of my Office of Emergency Services (OES) and the State Emergency Plan, and that OES provide local government assistance under the authority of the California Disaster Assistance Act, and that the emergency exemptions in sections 21080(b)(3) and 21172 of the Public Resources Code shall apply to all activities and projects ordered and directed under this proclamation, to the fullest extent allowed by law.

I FURTHER DIRECT THAT:

1. OES shall provide assistance under the authority of the California Disaster Assistance Act, by assisting public water agencies with drilling of groundwater wells or the improvement of existing wells and water delivery systems for human consumption, sanitation, and emergency protective measures, such as fire fighting.
2. The Department of Water Resources (DWR) shall transfer groundwater of appropriate quality through the use of the California Aqueduct to benefit farmers in the San Joaquin Valley
3. DWR and the State Water Resources Control Board (SWRCB) shall expedite the processing of water transfer requests.
4. DWR, in cooperation with USBR, shall make operational changes to State Water Project facilities, including the San Luis Reservoir and Southern California reservoirs, that will permit additional water deliveries to the San Joaquin Valley.
5. DWR shall prepare and file necessary water right urgency change petitions to facilitate surface water transfers and the use of joint point of diversion by the SWP and Central Valley Project.
6. SWRCB shall expedite the processing and consideration of water rights urgency change petitions filed by DWR and other water agencies to facilitate water transfers to the San Joaquin Valley.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 12th day of June, 2008.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State

State of California

State Water Resources Control Board

DIVISION OF WATER RIGHTS

-5 PM 3:22

P.O. Box 2000, Sacramento, CA 95812-2000

Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

**ENVIRONMENTAL INFORMATION
FOR PETITIONS
(THIS IS NOT A CEQA DOCUMENT)**

APPLICATION NO. 18085 PERMIT NO. 13856 LICENSE NO. -

The following information will aid in the environmental review of your change petition as required by the California Environmental Quality Act (CEQA). IN ORDER FOR YOUR CHANGE PETITION TO BE ACCEPTED AS COMPLETED, ANSWERS TO THE QUESTIONS LISTED BELOW MUST BE COMPLETED TO THE BEST OF YOUR ABILITY. Failure to answer all questions may result in your change petition being returned to you, causing delays in processing. If you need more space, attach additional sheets. Additional information may be required from you to amplify further or clarify the information requested in this form.

1. DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

(For a petition to change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.)

This petition involves the release of 20,000 acre-feet ("AF") of water by Placer County Water Agency ("PCWA") from its Middle Fork Project ("MFP") reservoirs into the Middle Fork and North Fork American Rivers from September 1 through December 31, 2008, and a change in the point of diversion and place of use of PCWA's released water. PCWA's released water would first flow into Folsom Reservoir. Through a Warren Act contract or some other wheeling/storage agreement with the U.S. Bureau of Reclamation ("Reclamation"), Westlands Water District ("WWD") would withdraw the released water from Folsom Reservoir when it can be rediverted at the CVP Tracy Pumping Plant for transportation for immediate use in WWD or for storage in San Luis Reservoir for later use in WWD. PCWA had approximately 268,400 AF of water in storage in its Middle Fork Project reservoirs as of June 30, 2008 (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 nos. 13855, 13856, 13857, and 13858. Of this

b. **Have you obtained any of the required permits described above?** No, none are required.

3. STATE/FEDERAL PERMITS AND REQUIREMENTS

a. **Check any additional state or federal permits required for your project:**

There are no additional permits required. PCWA will enter into a reservoir refill agreement with Reclamation. WWD will enter into a Warren Act contract or other wheeling/storage arrangement with Reclamation. The water transfer will be accomplished within the parameters of all applicable regulations and existing permits.

b. **For each agency from which a permit is required, provide the following information:** N/A

c. **Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed or bank of any stream or lake?** No.

d. **Have you contacted the California Department of Fish and Game concerning your project?** Yes. A copy of this petition was sent to the DFG North Central Regional Manager Sandy Morey at 1701 Nimbus Road, Rancho Cordova, CA 95670 Phone: (916) 358-2899, FAX: (916) 358-2899. Due to the urgent nature of this petition, PCWA has not had time to obtain the Department of Fish and Game's ("DFG") opinion regarding the project, but will provide this information to the appropriate SWRCB staff when available. PCWA expects DFG to indicate that the transfer will not unreasonably affect fish or wildlife resources because very similar transfers have been done in the past with no adverse impacts identified by DFG. In fact, in the past DFG has advocated such transfers as part of the transfer of water to the CAL-FED Environmental Water Account ("EWA"). (See Environmental Information Form.)

4. ENVIRONMENTAL DOCUMENTS

a. **Has any California public agency prepared an environmental document for your project?** No. CEQA is not required because temporary water transfers under Water Code § 1725 are statutorily exempt from CEQA review. (Water Code § 1729; CEQA Guidelines § 15282(u). Furthermore, this petition is to mitigate property loss and other social and human consequences of the proclaimed drought emergency and State disaster, which also would exempt it from CEQA review. (See subsection (c) below.)

b. **If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency.** N/A.

c. If NO, check the appropriate box and explain below, if necessary:

Petitioner PCWA is a California public agency and has determined that no environmental document pursuant to CEQA is required for the proposed water transfer that is the subject of this petition. Each of the following statutes or regulations independently exempts this water transfer from CEQA:

- Water Code § 1729 states that “aproposed temporary change under this article shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. (See also CEQA Guidelines § 15282(u))
- Public Resources Code § 21080(b)(3) states that Division 13 of the Public Resources Code (e.g., CEQA Initial Study, Negative Declaration, and/or EIR requirement) does not apply to “project undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.”
- Public Resources Code § 21080(b)(4) states that Division 13 of the Public Resources Code (e.g., CEQA Initial Study, Negative Declaration, and/or EIR requirement) does not apply to “specific actions taken to prevent or mitigate an emergency.”
- Public Resources Code § 21172 provides the same exclusion from CEQA as Public Resources Code § 21080(b)(3).
- CEQA Guidelines § 15269(a) provides an exemption from CEQA for projects “to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code.”
- CEQA Guidelines § 15269(c) provides an exemption from CEQA for “[s]pecific actions taken to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.”

There is no doubt that the drought and water supply shortage conditions facing agricultural producers in California’s San Joaquin Valley have created emergency conditions to which each of the above-referenced sections is applicable. This spring was the driest spring in northern California’s recorded history. Reservoir levels are at unprecedented lows, including California’s two largest, Lake Shasta and Lake Oroville. Furthermore, the major water supply projects of California, the SWP and CVP, are

currently involved in litigation regarding endangered species that has resulted in court-ordered reductions in water diversions, adding to the drought and causing significant uncertainty in water supply planning.

In the Central Valley, where much of the nation's agricultural production occurs, the dry conditions have increased crops' water demands, yet made the needed water supplies even more scarce. Westlands is the largest agricultural district within California's Great Central Valley. Westlands provides water supply to over 400,000 acres of valuable and productive farmland within Fresno and Kings Counties. Westlands' sole long-term source of water supply is the federal Central Valley Project ("CVP"), which is operated by the United States Bureau of Reclamation ("Reclamation"). Reclamation's 2008 allocation to Westlands was initially 45% of Westland's contract amount, but was subsequently reduced to only 40% after significant agricultural investments were made. Furthermore, operational constraints and limitations during the remainder of this summer and fall will actually reduce CVP deliveries to Westlands by an additional increment during a crucial part of the growing season.

The result of this shortfall has been and will be the loss of thousands of acres of agricultural crops and long-term damage to perennial crops. The loss of any crop after planting represents a loss of property with significant economic ramifications to the grower, agricultural workers, and local economies that depend heavily on agricultural production and agricultural markets. The loss of permanent crops such as orchards or vineyards represents an even more drastic disruption because such crops require years of investment and planning, making their loss effectively irreparable. Accordingly, the potential loss of permanent crops within WWD represents an exceptionally dire emergency. Therefore, if measures are not quickly taken to provide additional water supplies to WWD, significant economic and social dislocation will occur. This transfer will mitigate some of the potential damage from the drought emergency this year, and will also assist farmers within WWD in planning how to best allocate limited water resources among agricultural fields this year and those planned next year because it will increase WWD's water supply portfolio and water supply options.

In recognition of the severe impacts of the water shortage caused by reduced CVP deliveries to Westlands and other agricultural districts within Fresno County, the Fresno County Board of Supervisors passed Resolution No. 08-253 on June 6, 2006. Resolution No. 08-253 declared a local state of emergency in Fresno County due to severe drought conditions, which had led local water districts to ration water supplies. This resolution indicated that thousands of acres of seasonal crops and permanent crops were being abandoned, and that these crop losses would result in job losses and other economic impacts in Fresno County communities, which would also affect Fresno County businesses and local tax revenues. (See Exhibit 1 to Petition.) On July 29, 2008, the Kings County Board of Supervisors also readopted a resolution declaring emergency drought conditions.

On June 4, 2008, Governor Arnold Schwarzenegger issued Executive Order S-06-08, which proclaimed a condition of statewide drought. In this Executive Order, the Governor ordered the California Department of Water Resources to "[f]acilitate water

transfers in 2008 to timely respond to potential emergency water shortages.” Subsequent to issuing Executive Order S-06-08, the Governor, on June 12, 2008, proclaimed a state of emergency in Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern counties. In this proclamation, the Governor ordered that the State Water Resources Control Board (“SWRCB”) “shall expedite the processing and consideration of water rights urgency change petitions filed by DWR and other agencies to facilitate water transfers to the San Joaquin Valley.” Importantly, the Governor also ordered “that the emergency exemptions in sections 21080(b)(3) and 21172 of the Public Resources Code shall apply to all activities and projects ordered and directed under this proclamation, to the fullest extent allowed by law.” (See Exhibit 2 to Petition.)

Government Code section 8558 defined a “state of emergency” as “conditions of disaster or extreme peril to the safety of persons and property within the state caused by such conditions as ... drought.” Just such conditions exist within the WWD service area, and property will be lost at great economic and social cost to the State unless mitigated through water transfers such as that proposed here. Accordingly, and as indicated by the actual conditions within WWD, as acknowledged by the Governor’s declaration of a disaster and emergency proclamation, and Fresno County’s emergency resolution, CEQA does not apply to the water transfer that is the subject of this urgency change. Therefore, neither PCWA, WWD, nor the State Water Resources Control Board is required to perform or prepare an environmental analysis under CEQA.

5. WASTE/WASTE WATER

- a. **Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation? No.**
- b. **Will a waste discharge permit be required for your project? No.**
- c. **What method of treatment and disposal will be used? N/A.**

6. ARCHEOLOGY

- a. **Have any archeological reports been prepared on this project? No.**
- b. **Will you be preparing an archeological report to satisfy another public agency? No.**
- c. **Do you know of any archeological or historic sites located within the general project area? No.**

7. ENVIRONMENTAL SETTING

Attach three complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension

petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

1. Along the stream channel immediately downstream from the proposed point(s) of diversion.

A map depicting PCWA's Middle Fork Project in relation to Folsom Reservoir is attached as Attachment 1 hereto. Because of the large geographic area within the scope of PCWA's Middle Fork Project, and the distance between PCWA's reservoirs and Folsom Lake and the CVP Tracy pumping facility, it is not practical to attach photographs. The general vegetation throughout the Middle Fork Project is described in Section 8 below. No vegetation within the PCWA service area from the MFP reservoirs to Folsom Lake and the Sacramento-San Joaquin Delta should be adversely affected by the slight increase in flows that may occur as a result of this transfer. In fact, these additional releases will likely benefit vegetation by providing slightly higher flows during this critically dry year.

The proposed point of redirection is the CVP's Tracy pumping plant, which lies along the southwestern edge of the Sacramento-San Joaquin Delta. A map of the location of the Tracy Pumping plant is attached as Attachment 2 hereto. The Delta is an estuarine ecosystem of sloughs and channels that has been heavily modified by agricultural and other human uses, and the construction and maintenance of related flood control levees, for more than a century. No vegetation within the Sacramento-San Joaquin Delta should be adversely affected by the slight increase in flows that may occur as a result of this transfer.

2. Along the stream channel immediately upstream from the proposed point(s) of diversion.

See response to 7.1 above.

3. At the place(s) where the water is to be used.

A map depicting the location of WWD's service area is attached hereto as Attachment 3. Because of the large geographic area encompassed by the WWD (i.e., over 400,000 acres) it is not practical to attach photographs. The vegetation within WWD consists mainly of various annual and perennial agricultural crops and other land uses associated with agriculture such as fallowed and ploughed fields, and some livestock and other animal production operations. Other vegetation types within WWD include annual grassland and dry scrublands dominated by non-native plant species. This transfer will support existing agriculture within WWD and will not adversely affect other vegetation types within WWD.

8. ADDITIONAL CONSIDERATIONS

PCWA recognizes that the SWRCB serves an important public duty and must base its approval of this petition on a variety of factors including determining that it is in the

public's interest and that it will not injure other legal users of water or unreasonably affect fish wildlife and other instream beneficial uses. (Water Code § 1725) PCWA believes that the Governor's executive order and proclamation (discussed above) confirm that the petitioned for change is urgent, and in the public's best interest. PCWA provides the following environmental information to further assist and support the SWRCB in its determination that approval of the petition will not unreasonably affect fish wildlife and other instream beneficial uses.

The following table describes the major vegetative communities surrounding PCWA's MFP reservoirs and the Rubicon and American River sections that will carry released water:

<p><u>Tree Dominated Communities</u> Subalpine Conifer Red Fir Lodgepole Pine Mixed Conifer ✓ Sierran Mixed Conifer White Fir Klamath Mixed Conifer Douglas-Fir ✓ Jeffrey Pine ✓ Ponderosa Pine ✓ Eastside Pine Redwood Pinyon-Juniper Juniper Aspen Closed-Cone Pine-Cypress Montane Hardwood-Conifer Montane Hardwood ✓ Valley Foothill Hardwood Blue Oak Woodland ✓ Valley Oak Woodland ✓ Coastal Oak Woodland Valley Foothill Hardwood-Conifer ✓ Blue Oak-Digger Pine Eucalyptus Montane Riparian Valley Foothill Riparian Desert Riparian Palm Oasis Joshua Tree</p>	<p><u>Shrub Dominated Communities</u> Alpine Dwarf-Shrub Low Sage Bitterbrush ✓ Sagebrush ✓ Montane Chaparral Mixed Chaparral ✓ Chamise-Redshank Chaparral Coastal Scrub Desert Succulent Shrub Desert Wash Desert Scrub Alkali Desert Scrub</p> <p><u>Herbaceous Dominated Communities</u> Annual Grassland ✓ Perennial Grassland Wet Meadow Fresh Emergent Wetland ✓ Saline Emergent Wetland Pasture</p> <p><u>Aquatic Communities</u> Riverine ✓ Lacustrine ✓ Estuarine Marine</p> <p><u>Developed Communities</u> Cropland Orchard-Vineyard Urban ✓</p>
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(Literature source: Mayer, K.E., and W.F. Laudenslayer, Jr., (eds). 1988. A Guide to Wildlife Habitats of California. California Department of Forestry and Fire Protection, Sacramento. 166 pp. (Note: You may view a copy of this document at our public counter at the address given at the top of this form or you may purchase a copy by calling the California Department of Fish and Game, Wildlife Habitat Relationships (WHR) Program at (916) 653-7203).)

No vegetation will be affected by the release of the additional water for the transfer. Therefore, wildlife habitat will not be affected by the proposed additional releases of water from PCWA's reservoirs. Water use in the proposed new place of use would be to support the same land-use practices and agricultural crops that currently exist within the WWD service area. WWD would not place any additional acreage in use, or change or intensify existing land uses as a result of the transfer. The transferred water will simply provide much needed water supplies this summer and fall that have been lost due to court-imposed pumping restrictions on CVP operations earlier this year, and due to the emergency drought conditions afflicting the State.

Furthermore, it is not expected that any fish species will be adversely affected by the proposed additional releases from PCWA's reservoirs. Almost identical change petitions and transfers have been granted by the SWRCB in the past to support acquisition of water assets by the CAL-FED Environmental Water Account ("EWA"). For instance, in 2001 the SWRCB issued Order WR 2001-18-DWR, which approved the transfer of 20,000 AF from PCWA's Middle Fork Project reservoirs to the California Department of Water Resources to support the EWA. A copy of this order is attached as Attachment 4 hereto. Notably, the order found that because "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." (Attachment 4 at pg. 2.) Similar circumstances exist this year, and if the proposed transfer causes any effect on fish, the effect should be the same beneficial effect noted by the SWRCB during the 2001 transfer. Also, the Environmental Impact Report for the EWA, cooperatively prepared by Reclamation, the Department of Water Resources ("DWR"), the Department of Fish and Game ("DFG"), the National Marine Fisheries Service ("NMFS") and the United States Fish and Wildlife Service ("USFWS"), analyzed the effects of PCWA transfers to the CVP and SWP. Relevant portions of that analysis are provided as Attachment 5 hereto.

Lastly, it should be noted that the 20,000 AF is an extremely small amount of water compared to the overall volume of water generally conveyed through the American and Sacramento Rivers and the Delta. Historically, the CVP has diverted several million acre-feet of water from the Delta in all hydrologic year types, and therefore the addition of 20,000 AF in this dry year will not cause the CVP to change its Delta operations in a way that exceeds current or historic operating parameters or river flows. Furthermore, PCWA, WWD, and Reclamation will adhere to all other conditions imposed on their water rights and any other regulatory requirements governing activities associated with this transfer so that no adverse environmental or legal effects occur anywhere within the project area.

CERTIFICATION

I hereby certify that the statements I have furnished above and in the attached exhibits are complete to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge.

Date: August 5, 2008

KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD

Attorneys for Placer County Water Agency

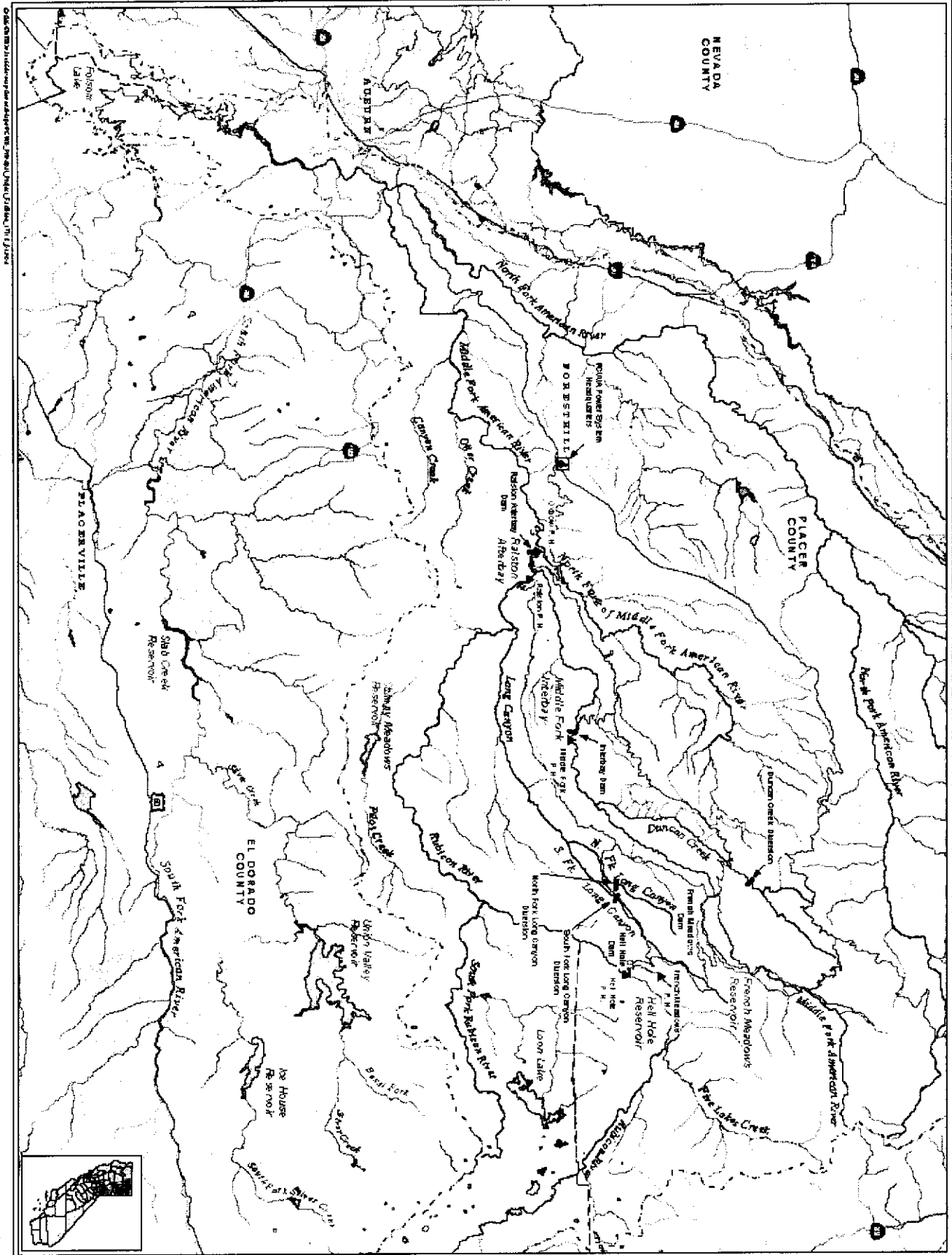
By: _____



Hanspeter Walter

897536.1 80.1

ATTACHMENT 1



Project Related Facilities

- ▲ Power Station
- Dam
- ☑ Power System Headquarters

Transportation

- Major Road
- Hill or Road

Hydrography

- Water Course
- Water Body

Designated Boundary

- - - North Fork American River
- - - Middle Fork
- - - South Fork
- - - County Boundary
- - - California-Nevada Boundary
- CW 101 today

Scale

0 1 2 Miles

0 1 2 Kilometers

Vertical Datum: Mean Sea Level

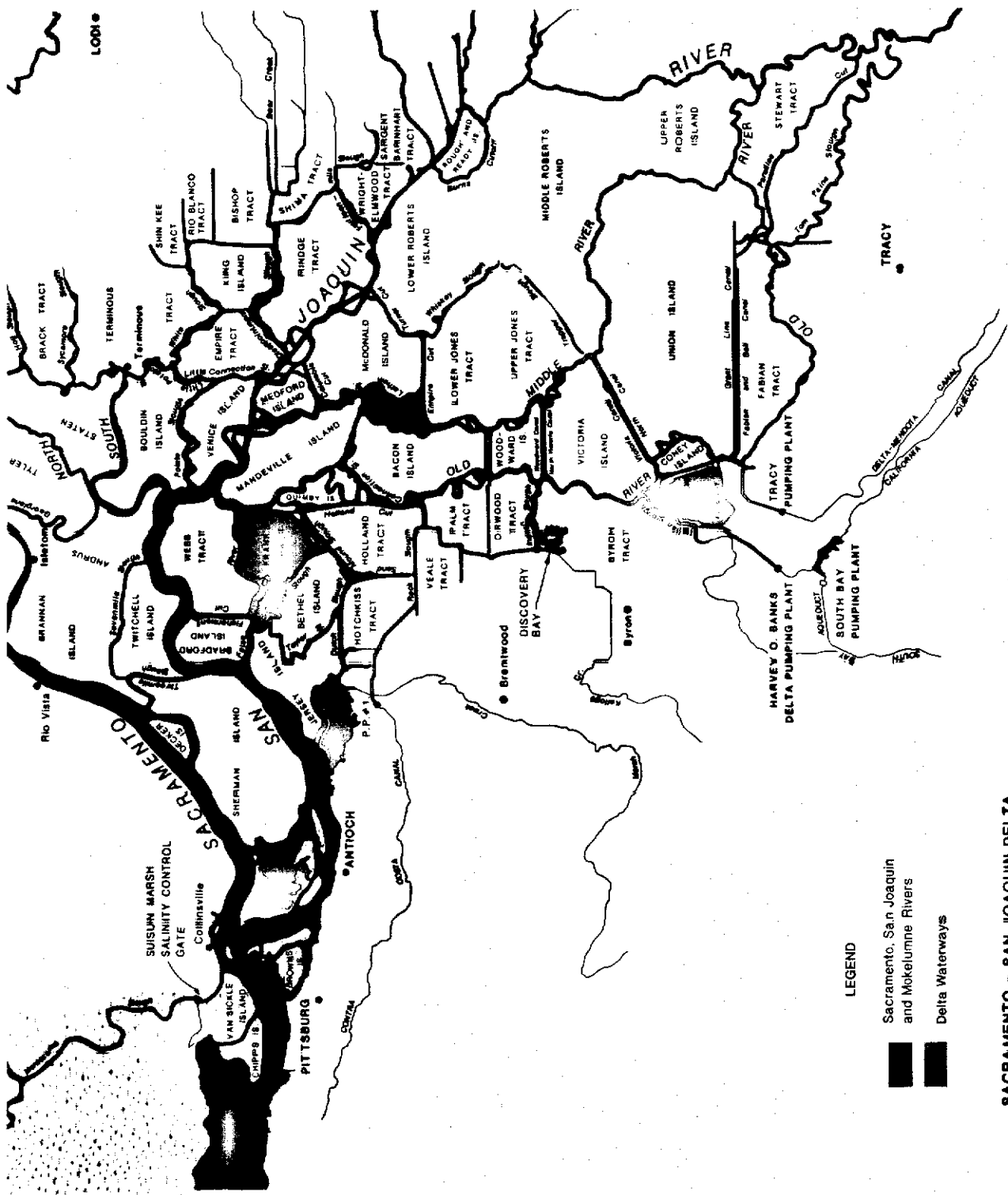
Horizontal Datum: NAD 83

Map Scale: 1:50,000



Figure 2-1
Principal Project Facilities and Geographic Setting

0 1 2 Miles
 0 1 2 Kilometers
 Vertical Datum: Mean Sea Level
 Horizontal Datum: NAD 83
 Map Scale: 1:50,000

ATTACHMENT 2



LEGEND

-  Sacramento, San Joaquin and Mokelumne Rivers
-  Delta Waterways

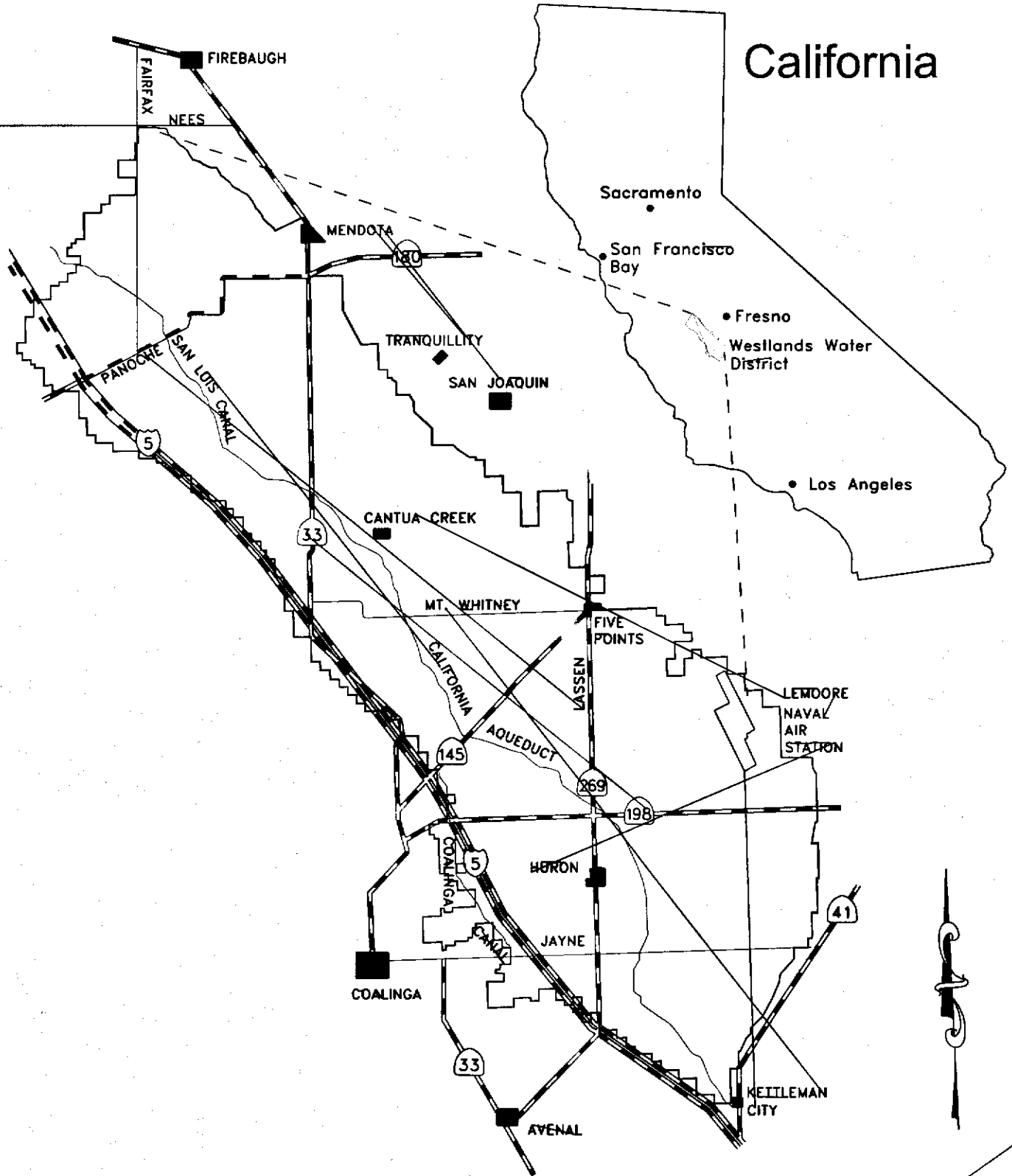
SACRAMENTO - SAN JOAQUIN DELTA

Delta Waterways

LOOK

ATTACHMENT 3

California



WESTLANDS WATER DISTRICT
 3730 N. EURENO ST. EURENO, CALIFORNIA 93703
 559.284.1523 Fax 559.244.8277

WESTLANDS WATER DISTRICT AREA MAP

DRAWN	J. RANGEL	APPROVED
CHECKED		
DATE	1/25/07	DRAWING-NO 2007-W-0003A

R:\WORKS\ARCHIVED\2002-W-0003.DWG

NUMBER	DATE	DRAWN	CHECKED	APPROVED
REVISION				

ATTACHMENT 4

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. Buehler
for Harry M. Schueller, Chief
Division of Water Rights

Dated: August 2, 2001

ATTACHMENT 5

EXCERPTS FROM EWA DEIS/EIR RELATING TO WATER ACQUISITION FROM PLACER COUNTY WATER AGENCY

The EWA EIS/EIR analyzed the acquisition of water from various sources, including Placer County Water Agency's Middle Fork Project ("MFP") reservoirs. The amount of water purchased from the MFP was 20,000 acre feet.

CD-ROM discs of the EWA EIS/EIR are enclosed for your review. For your convenience, however, significant portions of the EIR/EIS analysis and conclusions are set forth below, with page citations, and bolding to highlight the conclusions of the DEIS/EIR.

SCOPE OF THE ACTIONS ANALYZED AND RESOURCES AFFECTED:

2.4.1.3 Increasing Instream Flows

Increasing instream flows would improve habitat conditions in tributary rivers and the Delta for anadromous and resident fish. The Flexible Purchase Alternative would include flow increases beyond those in the No Action/No Project Alternative. Table 2-4 shows fish species that could require supplemental flows in various rivers and tributaries to meet habitat requirements for the various life history stages. The table also displays the timing of each life history stage and the rivers (those affected by EWA actions) in which each fish species can be found.

**"Table 2-4
Anadromous Fish Life History Stages and Locations**

Table 2-4 Anadromous Fish Life History Stages and Locations				
<i>Fish</i>	<i>Run</i>	<i>Stage</i>	<i>Month</i>	<i>Location</i>
Chinook Salmon	Fall	Immigrating adult	July - December	Sacramento, Feather, Yuba, American, San Joaquin, Merced
		Spawning	October - December	
		Emigrating juvenile	January - June	
	Late-fall	Immigrating adult	October - April	Sacramento, Feather, Yuba
		Spawning	December - April	
		Emigrating juvenile	May - December	
	Winter	Immigrating adult	December - July	Sacramento
		Spawning	Late April - mid-August	
		Emigrating juvenile	August - March	
	Spring	Immigrating adult	March - September	Sacramento, Feather, Yuba
		Spawning	Mid-August - October	
		Emigrating juvenile	November - June	
Steelhead	Central Valley	Immigrating adult	August - March	Sacramento, Feather, Yuba, American, San Joaquin, Merced
		Spawning	December - April	
		Emigrating juvenile	January - October	
American shad		Immigrating adult	April - May	Sacramento, Feather, Yuba, American, San Joaquin
		Spawning	June - July	
		Emigrating juvenile	August - October	
Green Sturgeon		Immigrating adult	February - June	Sacramento
		Spawning	March - July	
		Emigrating juvenile	June - August	
White Sturgeon		Immigrating adult	February - May	Sacramento, American, San Joaquin
		Spawning	May - June	
		Emigrating juvenile		

Source: Final Restoration Plan for the Anadromous Fish Restoration Program (AFRP Plan) (USFWS 2003)

"Supplemental flows, over the existing baseline for fishery protection requirements for instream flows, provide additional water primarily to benefit salmon and steelhead adult immigration, spawning, egg incubation, rearing, and emigration of juveniles through the regulation of pulse flows, water temperature, water quality, and the maintenance of attraction and flushing flows. While not the primary objectives of the EWA, instream flows may also aid white and green sturgeon emigration, spawning, egg incubation, and rearing and American shad spawning, incubation, and rearing.

"The EWA instream flow actions would occur on the waterways where the EWA purchases assets, including the Sacramento, Feather, Yuba, American, Merced, and San Joaquin Rivers. The EWA actions to increase instream flows would use the AFRP as a guide to identify the times and locations that supplemental flows are needed. CALFED's Environmental Water Program (EWP) and the CVPIA (b)(2) water would also help to meet the above objectives. CVPIA (b)(2) water can currently be used to augment instream flows, and the EWP may be able to take these actions in the future. The EWP is described further in Chapter 22, Cumulative Analysis Framework.

"2.4.1.4 Augmenting Delta Outflows

Fresh water from the Delta flows to the San Francisco Bay, which is more saline than the Delta estuary. The fresh water mixes with salt water in the Suisun Bay area, and the mixing zone location varies depending on the Delta outflow. Higher amounts of Delta outflow push the saltwater mixing zone farther out to the bay, and lower flows allow the saltwater zone to move farther into the Delta. Augmenting Delta outflows could move the saltwater mixing zone farther into the bay, improving the water quality within the Delta. The Flexible Purchase Alternative could include actions to augment Delta outflow in addition to outflows required by the SWRCB's Decision 1641 and existing baseline level of fishery protection. Augmenting Delta outflow would also help to restore a westward-moving flow pattern through the Delta, which would help outmigrating fish.

"In addition to taking direct actions to augment Delta outflows, other actions within the Flexible Purchase Alternative would have the secondary benefit of increasing Delta outflows. When the EWA agencies reduce Delta export pumping, the water that would have been pumped instead becomes Delta outflow. Delta outflow would also increase during the summer months when EWA assets are moved through the Delta because the transfers must include outflow water (carriage water) to maintain water quality"

(DEIS/EIR at pages 2-32—2-33.)

“2.4.2 Asset Acquisition and Management

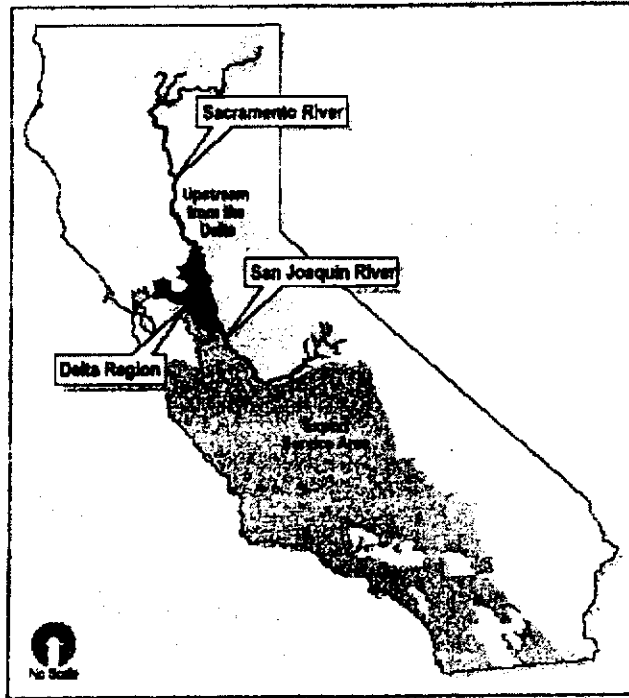


Figure 2-3
Asset Acquisition and Management Areas

“This section is organized according to the geographic areas in which the EWA Project Agencies acquire and/or manage assets for the Flexible Purchase Alternative: upstream from the Delta (Section 2.4.2.1), the Delta (Section 2.4.2.2), and the export service areas (Section 2.4.2.3). Figure 2-3 shows each of these areas.

“The EWA Project Agencies can use any of the acquisition methods described below to purchase water. Flexibility to purchase from any of these sources is critical to helping the EWA run efficiently because it allows the Project Agencies to purchase the least expensive water available in any given year. Table 2-5 lists agencies that may be willing to sell water to the EWA or have sold water to the EWA in past years, along with a general range of potentially available water volumes. None of the purchases in Table 2-5 are guaranteed; EWA Project Agencies could only make purchases if a seller is willing to participate. . . . [Table 2-5 lists Placer County Water Agency’s Middle Fork Project Reservoirs as a potential source of 20,000 acre-feet of water for EWA purchase.]

.....

"Table 2-5 does not contain an exhaustive list of potential EWA sellers; additional agencies may decide at any time that they wish to sell water to the EWA. An analysis of the potential environmental effects of transferring water, however, requires information on the transfer sources. **This environmental document will analyze the effects associated with the potential transfers in Table 2-5 and will serve as a document from which to tier, should other EWA transfers require a supplemental document. EWA water transfers that meet and implement the environmental measures incorporated into the project and mitigation measures developed in this document for the specific areas identified should not need additional environmental documentation once the programs have been reviewed and are complying with these measures.**"

(EWA DEIS/EIR at page 2-36, emphasis added.)

"American River

"Placer County Water Agency would sell water to the EWA Project Agencies from Hell Hole and French Meadows Reservoirs, on the Middle Fork of the American River (see Figure 2-8). It would take the agency 2-3 months to move the water downstream to Folsom Lake, where the water could be held until the EWA agencies are ready to release it. The water would be released from Hell Hole and French Meadows as early as June and until as late as October. Hell Hole and French Meadows would have lower surface water elevations than they would without the EWA from June until the reservoirs refill. Refilling the reservoirs would decrease flows downstream from the Ralston Afterbay.

"Water from both French Meadows and Hell Hole Reservoirs would enter a series of tunnels through power generation facilities, and these tunnels would release the water at Ralston Afterbay. While water is being released, the Middle Fork of the American would convey increased flows from Ralston Afterbay downstream to Folsom Lake. These releases could occur from June through October. Folsom Lake would hold the water until the EWA agencies are ready for it to be released. Folsom Lake elevations would be higher with the EWA water than would be the case without the water. As the EWA assets were released, the lake level would be restored to the non- EWA levels.

"On the American River, the EWA agencies may use assets to accomplish instream objectives and may move assets to users downstream from the Delta to make up for pumping reductions. If used for additional instream flows, the water may be released at a time when it could not be pumped through the Delta. During the summer (mid-May to mid-October), water may be released for steelhead temperature requirements.

"Additional instream flows are needed in October to December for Chinook salmon and steelhead spawning. The EWA agencies would release the water from Folsom to meet these multiple objectives, resulting in release periods from June through December."

(EWA DEIS/EIR at pages 2-41—2-42.)

IMPACT ANALYSIS: FISHERY IMPACTS:

"The models used in this analysis (CALSIM II, a Yuba River basin model, post-processing tool, reservoir temperature models, American and Sacramento river water temperature models, and the lower American and Sacramento river Chinook salmon early lifestage mortality models) are tools that have been developed for comparative planning purposes, rather than for predicting actual river conditions at specific locations and times. The 72-year and 69-year periods of record for CALSIM II and water temperature modeling, respectively, provide an index of the kinds of changes that would be expected to occur with implementation of a specified set of operational conditions. Reservoir storage, river flows, water temperature, and salmon survival output for the period modeled should not be interpreted or used as definitive absolutes depicting actual river conditions that will occur in the future. Rather, output for the Flexible Purchase Alternative can be compared to that for the Baseline Condition simulation to determine:

- ⊙⊙ Whether reservoir storage or river flows and water temperatures would be expected to change with implementation of the Flexible Purchase Alternative;
- ⊙⊙ The months in which potential reservoir storage and river flow and water temperature changes could occur; and,
- ⊙⊙ A relative index of the magnitude of change that could occur during specific months of particular water year types, and whether the relative magnitude anticipated would be expected to result in effects on fish resources within the regional area.

"The models used, although mathematically precise, should be viewed as having "reasonable detection limits.""

(EWA DEIS/EIR at pages 9-59 - 9-60)

"9.2.1.1 Reservoir Fish Species [Pages 9-60 - 9-65] (Included discussion of French Meadows, Hell Hole, Folsom and Natomas Reservoirs, as well as export area reservoirs.)

"9.2.1.2 Riverine Fish Species Hydrologic and Water Temperature Modeling (EWA DEIS/EIR at pages 9-67 - 9-76 (General));

"9.2.1.2.4 American River Area of Analysis The American River Basin represents a division of the CVP that has the most, and the largest (in number and volume) reasonably foreseeable water development actions. As such, numerous basin-specific evaluations have been conducted, thereby resulting in a large amount of environmental documentation pertaining to the American River. Included in the recent body of environmental documentation is the Water Forum Agreement, the extensive regional

water planning effort that establishes regional water needs for consumptive and environmental purposes through the year 2030.

"Reclamation has conducted another major environmental analysis, the American River Basin Cumulative Impact Report, for the same reasons that prompted the Water Forum's planning efforts. Because of the attention has been paid to it in recent years, more extensive methodologies, evaluation criteria, and analyses have been developed for fisheries resources within the American River Basin. The EWA program may utilize sources from two reaches within the American River Basin. EWA assets may be acquired from and/or stored in two non-Project reservoirs (French Meadows and Hell Hole Reservoirs) on the Middle Fork of the American River and one Project reservoir (Folsom Reservoir) on the lower American River. Because of differences in management, fish passage, and species distribution, these reaches were evaluated separately.

"Middle Fork American River Acquisition of stored reservoir water from French Meadows and/or Hell Hole reservoirs under the Flexible Purchase Alternative could affect Middle Fork American River flows and water temperatures during portions of the year. To assess potential effects on fish species of the Middle Fork American River, median flows downstream of Ralston afterbay were assessed throughout all months of the year. By examining flows throughout the year, the analysis covers all months of the spawning, incubation, and juvenile emergence periods for brown and rainbow trout (November through April and February through September, respectively). It is assumed that the range of potential impacts on salmonids in the Middle Fork American River encompasses the range of potential impacts on other species in the Middle Fork American River (hitch, Sacramento sucker, pikeminnow, and riffle sculpin), and therefore, species-specific analyses are not conducted for other resident species within this segment of the Middle Fork American River.

"Changes in releases from Hell Hole and French Meadows reservoirs could affect flows, and hence water temperatures, in the Middle Fork American River downstream of Ralston Afterbay. However, there is no temperature model currently available for the Middle Fork American River. Consequently, potential changes to water temperatures are evaluated through a qualitative discussion of Middle Fork Project operations and potential effects on fish species and other aquatic organisms. Changes in the operation of the Middle Fork Project have the potential to affect the coldwater pool volume at Folsom Reservoir. A discussion of potential impacts on coldwater pool volume at Folsom Reservoir is included in the analysis of coldwater fisheries resources at Folsom Reservoir. []

"Nimbus Hatchery Because changes in Folsom Reservoir releases under the Flexible Purchase Alternative could alter water temperatures in Lake Natoma during some months, and because Nimbus Hatchery diverts its water supply directly from Lake Natoma throughout the year, the Flexible Purchase Alternative could change hatchery water temperatures during some months of the year. Nimbus Hatchery production remains relatively unaffected when hatchery temperatures remain below 60°F. However, increased disease and mortality of hatchery-reared fish often occurs when water temperatures exceed 60°F. Losses from these factors become a particular problem when hatchery water temperatures exceed 65°F for extended periods. Water temperatures

exceeding 68°F for even short periods (days) are particularly detrimental to hatchery fish held at high densities, and could require the hatchery to release and/or transfer most or even all of its fish to prevent unacceptably high mortality (B. Barngrover 1997).

“To assess potential water temperature-related impacts on Nimbus Hatchery operations, monthly mean temperatures of water released from Nimbus Dam under the Flexible Purchase Alternative were modeled and compared to those modeled under the Baseline Condition for each month of the year. The number of years of the 69 years modeled that monthly mean Nimbus Dam release temperatures would exceed the index values of 60°F, 65°F, and 68°F under the Flexible Purchase Alternative were determined and compared to the frequency of exceedance of these temperature index values under the Baseline Condition. In addition, for each month of the year, the mean temperature of water released from Nimbus Dam for the years exceeding each of these temperature index values was determined.

“Lower American River Flows and water temperatures in the lower American River are controlled by operations of Folsom Reservoir. Folsom Reservoir, because of its proximity to the Delta, is often used by Reclamation to make releases when additional Delta outflow is required to meet Delta salinity standards. Consequently, Folsom Reservoir storage can be reduced, resulting in reduced coldwater pool volume. If the coldwater pool disappears, releases from Nimbus Dam are warmer and have the potential to exceed suitable temperature ranges for fish species of primary management concern in the lower American River. Seasonal changes in releases from Folsom Reservoir resulting from the management of EWA assets under the Flexible Purchase Alternative could affect lower American River flows and water temperatures during portions of the year. Because a number of fish species of primary management concern utilize the lower American River for one or more of their lifestages, and because potential temperature impacts are a concern under the Baseline Condition, species-specific impact assessments were warranted for the lower American River and were conducted for the following five species of primary management concern:

- Fall-run Chinook salmon;
- Steelhead;
- Splittail;
- American shad; and
- Striped bass.”

[Extended discussion of species & life stages follows]

(EWA DEIS/EIR at pages 9-83 – 9-90)

Impacts of EWA Purchase:

"9.2.6.1.4 American River Area of Analysis

"EWA acquisition of Placer County WA stored reservoir water would alter American River flows downstream of French Meadows Reservoir to Folsom Reservoir from June to October. EWA acquisition of Placer County WA stored reservoir water would alter American River flows downstream of French Meadows and Hell Hole reservoirs to Folsom Reservoir during refill of Hell Hole and French Meadows reservoirs. EWA acquisition of Placer County WA stored reservoir water would alter surface water elevations from July until refill for French Meadows and Hell Hole reservoirs. EWA acquisition of Sacramento Groundwater Authority (SGA) water via groundwater purchase would alter summer surface water elevations at Folsom Reservoir. EWA acquisition of stored groundwater from SGA members, stored reservoir water, and water obtained through Placer County WA crop idling and retained in Folsom would alter lower American River flows, relative to the Baseline Condition.

"Under the Flexible Purchase Alternative, changes in Project and non-Project reservoir storage and water surface elevations are not anticipated to reduce the availability of littoral habitat for warmwater fish, increase the potential for nest dewatering events for warmwater fish, reduce the volume of the coldwater pool, or affect the primary prey species of coldwater fish. No significant impacts on reservoir fish species under the Flexible Purchase Alternative were identified. Impacts considered less than significant under the Flexible Purchase Alternative also would be considered less than significant for a lesser or identical transfer amount (the Fixed Purchase Alternative). Therefore impacts on warmwater and coldwater fish species within French Meadows, Hell Hole, and Folsom reservoirs with implementation of the Fixed Purchase Alternative are anticipated to be less than significant.

"Under the Flexible Purchase Alternative, changes in lower American River flows and water temperatures would not be of sufficient frequency or magnitude to beneficially or adversely affect attraction or adult immigration of anadromous species, spawning habitat availability, egg incubation, initial rearing success, long-term initial year-class strength, or juvenile rearing and emigration of Chinook salmon, Central Valley steelhead, Sacramento splittail, striped bass, or American shad, as applicable. In addition, implementation of the Flexible Purchase Alternative would not result in a measurable increase in the frequency in which monthly mean water temperatures would exceed 65°F during the anadromous salmonid rearing period. Further, under the Flexible Purchase Alternative, there would be one additional occurrence below Nimbus Dam and one additional occurrence at Watt Avenue in which monthly mean water temperatures would exceed 56°F in October, relative to the Baseline Condition, during the anadromous salmonid spawning and egg incubation period.

"Changes in Middle Fork American River flows under the Flexible Purchase Alternative would not result in adverse effects on resident fish species. Overall, habitat conditions would be expected to improve during summer months due to decreased variation in weekly flows, relative to the Baseline Condition, and reductions in flows that would occur in winter months would not be of sufficient frequency or magnitude to violate instream flow requirements and adversely affect aquatic resources. Therefore, impacts on Middle Fork American River fisheries resources would be less than significant, relative to the Baseline Condition.

"No significant impacts on the fish species of primary management concern under the Flexible Purchase Alternative were identified within the American River Area of analysis. Impacts considered less than significant under the Flexible Purchase Alternative would also be considered less than significant for a lesser or identical transfer amount (the Fixed Purchase Alternative). Therefore impacts on fish species of primary management concern within the American River Area of analysis with implementation of the Fixed Purchase Alternative are anticipated to be less than significant."

(EWA DEIS/EIR at pages 9-276--9-278.)

"9.2.8 Mitigation Measures

"The ASIP conservation measures presented in Section 9.2.3 have been developed to reduce effects on fisheries and aquatic resources to less than significant levels. No adverse effects on fisheries and aquatic resources are anticipated with implementation of the Flexible Purchase Alternative or Fixed Purchase Alternative for any of the acquisition types associated with the EWA Program. Consequently, no mitigation measures are proposed for fisheries and aquatic resources.

"9.2.9 Potentially Significant Unavoidable Impacts

Within the EWA Action Area, no potentially significant impacts on fisheries and aquatic resources with implementation of the Flexible Purchase Alternative or Fixed Purchase Alternative were identified. Therefore, there are no potentially significant unavoidable impacts on fisheries and aquatic resources associated with implementation of the EWA Program.

"9.2.10 Cumulative Effects

The analysis of potential cumulative impacts on fisheries and aquatic resources within the EWA Area of analysis is based on a discussion of potential impacts resulting from the comparative analysis of the Flexible Purchase Alternative and the cumulative condition. CALSIM II hydrologic modeling output (see Attachment 1, Modeling Description) for reservoir storage volumes, water surface elevations, and river flows were used as a baseline for the comparative analysis, which is discussed in detail in Section 9.2.5, Environmental Consequences/Environmental Impacts of the Flexible Purchase Alternative. The analysis includes an assessment of potential impacts on reservoir, riverine, and Delta fish species using the relative change in flows, reservoir storage and water surface elevation, water temperatures, and various Delta parameters as impact indicators. . . ."

(EWA DEIS/EIR at page 9-285, emphasis added.)

"[R]eservoir operations under the EWA cumulative condition would not be expected to differ substantially from the conditions described in Section 9.2.5, Environmental Consequences/Environmental Impacts of the Flexible Purchase Alternative, and,

therefore, cumulative impacts on reservoir warmwater and coldwater fisheries would be less than significant. Similarly, changes in flows and water temperatures in rivers potentially affected by the EWA cumulative condition also would be similar to those analyzed for the Flexible Purchase Alternative and, therefore, represent less-than-significant cumulative impacts on riverine fishes and their habitats.

(EWA DEIS/EIR at page 9-302, emphasis added.)