

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

DIVISION OF WATER RIGHTS

In the Matter of Specified License and Permits of

**THE STATE WATER PROJECT AND
THE CENTRAL VALLEY PROJECT**

**ORDER APPROVING A PETITION FOR TEMPORARY CHANGE IN THE PLACE OF
USE OF LICENSE AND PERMITS OF THE CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES BUREAU OF RECLAMATION**

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 INTRODUCTION

On May 7, 2019, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (hereinafter jointly referred to as Petitioners) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), a Petition for Temporary Change under Water Code Section 1725, et seq. With the petition, DWR requests a one-year modification of Permit 16479 and Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 to temporarily change the authorized place of use of: (1) the DWR permit to include the Central Valley Project (CVP) authorized place of use downstream of Jones Pumping Plant (Jones); and (2) the Reclamation license and permits to include the State Water Project (SWP) authorized place of use downstream of Harvey O. Banks Pumping Plant (Banks). The Petitioners use the term “downstream” to identify that portion of the SWP and CVP that is served by water diverted from the Jones and Banks Pumping Plants. These areas are served via a system of canals and holding reservoirs that is within the petitioners’ control. These areas are not within the downstream water supply as defined in Water Code section 1725. The maximum total transfer quantity requested is up to 436,720 acre-feet (af).

The changes requested will temporarily consolidate the authorized places of use of the SWP and CVP (hereinafter jointly referred to as the Projects). Petitioners indicate that the changes will more effectively and efficiently utilize the operational flexibility of the combined Projects to supply water south of Banks and Jones (Delta Pumps). The Petitioners state that the requested changes will facilitate the delivery of available Project supplies south of the Sacramento-San Joaquin Delta (Delta) and maximize the

beneficial use of available supplies. The Petitioners indicate approval of the petition will not increase the quantity or alter the timing of diversions from the Delta or San Joaquin River.

The temporary changes would become effective upon issuance of the Order and would remain in effect for one year from the date of approval. The total transfer quantity consists of many transfers/exchanges detailed in Section 3.3 below. The SWP and CVP license and permits subject to the proposed changes are listed in the table below.

SWP Water Rights Subject to Temporary Change

Application Number	Permit (P) Number	Description
14443	P16479	Oroville Project

CVP Water Rights Subject to Temporary Change

Application Number	License (L) or Permit (P) Number	Description
23	L1986	Friant Project
234	P11885	Friant Project
1465	P11886	Friant Project
5626	P12721	Shasta Project
5628	P11967	Trinity Project
5638	P11887	Friant Project
9363	P12722	Shasta Project
9364	P12723	Shasta Project
9368	P12727	Jones Pumping Plant
13370	P11315	Folsom Project
13371	P11316	Folsom Project
15374	P11968	Trinity Project
15375	P11969	Trinity Project
15764	P12860	San Luis Reservoir
16767	P11971	Trinity Project
17374	P11973	Trinity Project
17376	P12364	Whiskeytown Lake

On July 2, 2018, the State Water Board approved a similar petition filed by the same Petitioners to transfer/exchange up to 434,300 af of water to primarily the same buyers. As of May 31, 2019, 39,263 af of water have been transferred/exchanged.

2.0 SUBSTANCE OF TEMPORARY CHANGE PETITION

2.1 Existing Place of Use of Petitioners Water Rights

The service area of the SWP is shown on maps 1878-1, 1878-2, 1878-3, and 1878-4 (on file under Application 5629) and the service area of the CVP is shown on map 214-208-12581 (on file under Application 5626).

2.2 Place of Use under the Proposed Temporary Change Petition

In order to consolidate the SWP and CVP authorized places of use, the Petitioners have requested:

- 1) the temporary addition of the CVP service area downstream of Jones to the place of use under DWR's Permit 16479; and
- 2) the temporary addition of the SWP service area downstream of Banks to Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364. These temporary additions would be for the purpose of completing the transfers/exchanges described below and would be effective for one year following the date the petition is approved. The areas to be added to the SWP are shown on Map 214-202-83 and the areas to be added to the CVP are shown on Map 214-202-84 submitted with the petition.

2.3 Transfers/Exchanges Proposed

The petition identifies the following possible transfers/exchanges and reasons for them:

a. Santa Clara Valley Water District

Santa Clara Valley Water District (Valley Water) contracts for a water supply from both the SWP and CVP. The SWP water is delivered through the South Bay Aqueduct (SBA) and the CVP water is delivered from San Luis Reservoir through the San Felipe Division. In 2019 and 2020, there are several operational and maintenance issues that may require the delivery of the Valley Water's CVP or SWP supplies through an exchange. Also, in 2019 and 2020, Valley Water may need to recover previously stored CVP water from Semitropic Water Storage District (Semitropic) by exchange. Up to 75,000 af of the Valley Water's CVP, SWP, and/or previously stored CVP supplies may require delivery through these alternative conveyance approaches. The need for this flexibility is described in more detail below:

- Based on historic operating conditions, total storage in San Luis Reservoir may drop to levels that result in operational and/or water

quality problems. When this occurs, Valley Water's pumping capacity through the CVP San Felipe Division can be limited, potentially impacting the ability to meet Valley Water demands. In addition, low water levels can result in reduced water quality causing water treatment problems that could result in reductions in the quantity of CVP water conveyed through the CVP San Felipe Division, as well as increased water treatment costs. Although this is unlikely to happen in 2019, there is still uncertainty for the Projects' water supply allocations and operations in 2020.

- The aging infrastructure in the San Felipe Division has resulted in several planned and unplanned facility shutdowns for maintenance and repair over the last several years and into the future. In 2019 and 2020, Valley Water has identified the following planned activities that will limit its ability to receive water through the San Felipe Division and therefore, may require delivery of Valley Water's CVP water through an exchange with SWP: 1) Valley Water scheduled maintenance, including shutdown of the Pacheco Pumping Plant and Pacheco Conduit for 2.5 weeks in September 2019; 2) inspection and rehabilitation on the Cross Valley Pipeline from early September 2019 through early December 2019, and 3) inspection and rehabilitation on the Central Pipeline that feeds to the Rinconada Water Treatment Plant.
- The South Bay Aqueduct (SBA) has also experienced several unplanned outages over the last several years due to aging infrastructure, during which time Valley Water has been almost completely reliant on CVP deliveries to meet treatment plant demands. Possible shutdowns on the SBA, as well as within Valley Water's service area, may prevent deliveries of Valley Water's SWP water through the SBA. Additionally, there is a planned partial shutdown at the Penitencia Water Treatment Plant, which will also limit delivery of SWP supplies from the SBA to Valley Water.
- Valley Water has previously banked CVP water in the Semitropic groundwater bank. Recovery of the stored CVP water must be accomplished by exchange. In order to return the previously stored CVP water to Valley Water, Semitropic will either pump the stored water into the California Aqueduct through Semitropic's turn-in facilities and deliver that water to DWR for use within the SWP service area south of Semitropic, or use Valley Water's previously stored water within Semitropic's service area. In exchange, an equal amount of SWP water would be delivered to Valley Water through either the SBA and/or the CVP San Felipe Division.

- Valley Water may need to move its SWP water through the CVP San Felipe Division by exchange in order to balance its operations if there is insufficient CVP water moving through the CVP San Felipe Division. Reclamation and DWR are requesting an exchange of CVP and SWP water to allow the delivery of Valley Water's SWP water through an exchange with CVP water. SWP water would be pumped at Banks and delivered through the SBA to the CVP at O'Neill Forebay for use within the CVP service area south of O'Neill Forebay. In exchange, an equal amount of CVP water would be pumped at Jones and returned to DWR for use within the SWP service area south of O'Neill Forebay. The Petitioners state that the proposed exchange would not increase the total amount of CVP or SWP water allocated to Valley Water by DWR or Reclamation.
- Valley Water may also need to move its CVP water through the SBA by exchange in order to balance its operations if there is insufficient SWP water moving through the SBA. Thus, Reclamation and DWR are requesting approval to exchange CVP and SWP water to allow Valley Water's CVP water to be pumped at Jones and delivered through the San Felipe Division to DWR at O'Neill Forebay for use within the SWP service area south of O'Neill Forebay. In exchange, an equal amount of SWP water would be pumped at Banks and returned to Reclamation at the O'Neill Forebay for use within the CVP service area south of O'Neill Forebay. The Petitioners state that the proposed exchange would not increase the total amount of CVP or SWP water allocated to Valley Water by DWR or Reclamation.

The Petitioners state that the added flexibility provided by the proposed exchanges will allow Valley Water to manage operational and maintenance uncertainties on both the CVP San Felipe Division and the SBA, and allow Valley Water to recover previously stored CVP water from the Semitropic groundwater bank by exchange.

b. Oak Flat Water District/Del Puerto Water District Exchange

Oak Flat Water District (Oak Flat), a SWP contractor, and Del Puerto Water District (Del Puerto), a CVP contractor, are adjacent districts located north of San Luis Reservoir in San Joaquin, Stanislaus, and Merced Counties. The districts share common landowners. Landowners with water supplies from both projects have requested the ability to optimize the application of available supplies on their combined properties.

The proposed exchange would allow the delivery of up to 1,000 af of the landowners' CVP supplies through SWP turnouts on the California Aqueduct to lands within Oak Flat and /or delivery of the landowner's SWP supplies through CVP turnouts on the Delta-Mendota Canal to lands within Del Puerto. The

Petitioners state that the proposed exchange would result in no increase in total SWP or CVP allocations to either district.

In addition to the exchange above, Oak Flat and Del Puerto propose an even exchange with SWP and CVP water to allow the delivery of up to 2,000 af of Del Puerto's CVP water. A portion of the lands within Del Puerto adjacent to Oak Flat are more efficiently served from Oak Flat's turnouts on the California Aqueduct. Del Puerto proposes to deliver a portion of its CVP supply to the lands adjacent to Oak Flat through an even exchange with SWP water. Up to 2,000 af of SWP water will be delivered through the Oak Flat turnouts on the California Aqueduct to Del Puerto. An equal amount of CVP water will be delivered to DWR at O'Neill Forebay. The Petitioners state that the exchange will not result in any increase in pumping from the Delta by either the SWP or CVP or any increase in total deliveries to Del Puerto.

c. Kern County Water Agency

Kern County Water Agency (KCWA) is a SWP Contractor with numerous member units within Kern County. Only some of its member units are inside the CVP place of use. On the other hand, the entire Kern County is inside the SWP place of use. The proposed exchanges between KCWA and other entities is up to a total of 139,900 af under the actions listed below.

i. Kern County Water Agency-Kern Tulare Water District: Cross Valley Canal

Kern Tulare Water District (KTWD) is a CVP contractor located in Kern County with a contract for CVP water through the Cross Valley Canal (CVC). Due to limited capacity at Jones, conveyance of CVP-CVC water through SWP facilities is often required to complete deliveries to the CVC contractors. Petitioners have an agreement to pump CVC water at Banks for delivery to the CVC when operational capacity is available. As a result of projected hydraulic conditions and anticipated operations restrictions it is possible there will be no ability to move CVC water through Jones or Banks until late 2019 and/or early 2020. In order to assist KTWD in meeting peak irrigation demands this summer, KCWA is willing to provide up to 53,300 af of its SWP water to KTWD through the 2019 summer months. In exchange, KTWD is willing to provide an equivalent amount of CVP-CVC water to KCWA in late 2019 and/or early 2020 for delivery to KCWA member units. The Petitioners state that the exchange will not result in an increase in allocations to either district.

- ii. Kern County Water Agency - Westlands Water District Exchange of Banked CVP Water in Semitropic Water Storage District's Groundwater Bank

Westlands Water District (Westlands), a CVP contractor outside of SWP place of use, has stored CVP water in Semitropic's groundwater bank. KCWA's SWP water is proposed to be delivered to Poso Creek LLC's and Harris Farms Inc's (up to 2,500 acre-feet for each) lands in Westlands through the Joint-Use San Luis Canal. In return, an equivalent amount of Westlands' CVP water stored in the Semitropic groundwater bank is proposed to be delivered to KCWA to use in their service area in the same year.

- iii. Kern County Water Agency – Rosedale-Rio Bravo Water Storage District Groundwater Bank

KCWA proposes to deliver up to 10,000 af of its CVP Friant water to lands outside of the CVP place of use but inside the SWP place of use that covers the service areas of Santa Clarita Valley Water Agency (Santa Clarita), Coachella Valley Water District (Coachella), and Irvine Ranch Water District (Irvine) to facilitate the delivery of previously stored SWP and Kern River water in Rosedale-Rio Bravo Water Storage District (Rosedale). Santa Clarita has banked SWP and Kern River water supplies in Rosedale's groundwater bank and plans to recover up to 3,000 af of their previously stored SWP and Kern River water. Coachella has banked Kern River water supplies in Rosedale and plans to recover up to 5,000 af of previously stored Kern River water. Irvine has banked SWP and Kern River water supplies in Rosedale and plans to recover up to 2,000 af of previously stored SWP and Kern River water. Delivery of the SWP and Kern River water currently stored in Rosedale is proposed to be accomplished through exchange. KCWA would deliver up to 10,000 af of the CVP water to Santa Clarita's, Coachella's, and Irvine's California Aqueduct turnouts. An equivalent amount of Santa Clarita's, Coachella's, and Irvine's water stored in Rosedale's groundwater bank would be transferred to Rosedale.

- iv. Kern County Water Agency-San Joaquin River Exchange Contractors Water Authority

In 2017, the San Joaquin River Exchange Contractors Water Authority (SJRECWA) and Rosedale entered into an unbalanced exchange program. SJRECWA delivered 23,522 af of its CVP water in 2017 to lands within Rosedale service area in the CVP place of use for banking and direct use. Rosedale proposes to forego up to 5,000 af of their SWP water. DWR

would make this foregone water available at the O'Neill Forebay for Reclamation to deliver to the SJRECWA service area, which is outside of the SWP place of use. The Petitioners state that the exchange will not result in an increase in allocations to either district.

Absent the exchange, Rosedale would either bank their SWP water or use it in their service area. For the SJRECWA, the exchange water would irrigate lands that otherwise would have been irrigated by groundwater, resulting in the same amount of return flows with or without the exchange.

v. Transfer of San Joaquin River Restoration Program Recaptured Recirculation Flows to Kern County Water Agency

As part of the San Joaquin River Settlement Agreement, recaptured Recirculation Flows can be transferred for the purpose of reducing or avoiding impacts to the CVP Friant Unit contractors. Recaptured Recirculation Flows are storage releases from the Millerton Lake for fishery benefits in the San Joaquin River, generally down to the Mendota Pool but also to a smaller degree down to approved rediversion points in the lower San Joaquin River. Diversions from the Mendota Pool and rediversion points in the lower San Joaquin River are delivered to south of Delta CVP contractors in exchange for water diverted from the Delta. The San Joaquin River Restoration Program (SJRRP) anticipates allocating up to 30,000 af of recaptured Recirculation Flows to Friant Contractors. Various Friant Contractors propose to transfer and/or bank the recaptured flows within KCWA's service area.

The CVP Friant Unit contractors are proposing to transfer the stored CVP water in San Luis Reservoir to KCWA. Reclamation proposes to provide up to 30,000 af of SJRRP water at the O'Neill Forebay for DWR to deliver to KCWA. KCWA would then provide the SJRRP water to its member units as follows: up to 6,138 af to Belridge Water Storage District (BWSD), up to 5,391 af to Berrenda Mesa Water District (BMWWD), up to 10,380 af to Lost Hills Water District (LHWD), and up to 8,091 af to Wheeler Ridge-Maricopa Water Storage District. The Petitioners state that there would be no change in San Joaquin River flows or Delta pumping as a result of this transfer, as this water is released under the SJRRP as Restoration Flows and does not flow into the Delta.

vi. San Joaquin River Exchange Contractors Water Authority – Kern County Water Agency

SJRECWA has implemented a Water Transfer Program for non-critical year water transfers with CVP contractors. Water is made available

through a conservation/tailwater recovery program (i.e. reduction in consumptive use), described in the “Water Transfer Program for the San Joaquin River Exchange Contractors, 2014-2038 Environmental Impact Statement/Environmental Impact Report” approved by Reclamation on July 30, 2013.

For the period of July 2019 through June 2020, SJRECWA anticipates making more transfer water available under the recovery program than CVP contactors can receive. Reclamation proposes to make up to 10,000 af of the SJRECWA’s CVP water available at the O’Neill Forebay for delivery by DWR to common landowner lands within SJRECWA and KCWA. KCWA would distribute the water to its member units: BWSD (up to 3,334 af), BMWD (up to 3,333 af) and LHWD (up to 3,333 af) who are outside the CVP place of use.

vii. Kern County Water Agency – Arvin Edison Water Storage District

KCWA proposes to deliver up to 20,000 af of CVP Delta, San Luis Reservoir, or Friant surface supplies (CVP water supplies) to lands within KCWA but outside of the CVP place of use to facilitate a one-for-one exchange program between Arvin-Edison Water Storage District (AEWSD) and Westside Mutual Water Company (WMWC). WMWC receives SWP water supplies from BWSD, BMWD, and LHWD. As part of the exchange program, AEWSD would deliver its CVP water supplies to BWSD (up to 6,667 af), BMWD (up to 6,667 af), and LHWD (up to 6,666 af) on behalf of WMWC. In exchange, an equivalent amount of BWSD, BMWD, and LHWD’s SWP water would be delivered to AEWSD within the SWP place of use. The Petitioners state that the exchange will not result in an increase in allocations to any district.

viii. Kern County Water Agency-Rosedale-Pleasant Valley Water District:
Banked Kern River Water

Pleasant Valley Water District (PVWD) is partially inside the CVP place of use but outside the SWP place of use and has acquired Kern River water supply from Buena Vista Water Storage District (BVWSD), a member unit of KCWA who receives SWP water. DWR would make available up to 6,000 af of KCWA’s SWP water at the O’Neill Forebay for delivery to PVWD. In exchange, PVWD would transfer an equivalent amount of Kern River water stored in BVWSD to KCWA.

d. Arvin-Edison Water Storage District/Metropolitan Water District Program

Metropolitan Water District of Southern California (MWDSC) is a SWP contractor. AEWS is a CVP contractor within both the CVP and SWP place of use. The CVP place of use would be expanded to include MWDSC, which would allow AEWS to exchange up to 150,000 af of CVP water supplies (CVP Delta, San Luis Reservoir, or Friant) with MWDSC SWP water under the three programs described below.

For each of the three programs, the following conveyance mechanisms would take place for MWDSC to receive AEWS CVP water:

- CVP Friant water would be conveyed either: (1) from the Friant-Kern Canal through AEWS's distribution system connected to the California Aqueduct at Milepost 227 (Reach 14C), or (2) from the Friant-Kern Canal through the CVC to the California Aqueduct (Tupman), or;
- Reclamation would make AEWS's CVP Delta/San Luis water available at the O'Neill Forebay for DWR to deliver through the California Aqueduct to MWDSC.

In return, at a later time, DWR would make MWDSC's SWP water available at the O'Neill Forebay and deliver to AEWS system through two routes: (1) the California Aqueduct at Milepost 227 (Reach 14C), or (2) the California Aqueduct/CVC turnout (Tupman).

Groundwater Banking:

MWDSC stores a portion of its SWP supply in the AEWS groundwater banking facilities depending on annual allocations. When requested, AEWS is obligated to return previously banked SWP water to MWDSC. In the absence of this proposed exchange, previously banked SWP water can only be recovered from AEWS banking facilities through groundwater extraction. The expansion of the CVP place of use would allow AEWS the option and flexibility to return MWDSC's banked water through an exchange of its available surface water supplies, including CVP Delta, San Luis Reservoir, or Friant surface supplies (CVP water supplies). The exchange would allow AEWS greater flexibility in the scheduling and use of its CVP water supplies as well as a reduction in energy and costs associated with the groundwater extraction. The ability for AEWS to return surface water through exchange would enhance the operational flexibility, water quality, and timing of water returned to MWDSC. CVP water supplied to MWDSC by AEWS in lieu of extraction to recover

previously stored SWP water would result in a balanced exchange or one-for-one reduction of MWDSC's groundwater banking account with AEWS. The exchange would occur only to the extent MWDSC has a positive water bank balance. Upon return of water to MWDSC, an equivalent amount of MWDSC's previously banked SWP water residing in AEWS's water banking facilities would be transferred to AEWS.

Regulation Program:

The Petitioners state that the requested change would allow AEWS to deliver its CVP water supplies to MWDSC first and receive back SWP water supplies in exchange at a later time. They state that this program would better facilitate the use of AEWS's CVP water supplies that have a limited opportunity for use under current CVP operations. AEWS is interested in utilizing MWDSC's ability to take delivery and use or store AEWS's CVP water supplies and return SWP water supplies to AEWS at a future time in order to enhance AEWS's ability to match supply to grower demands. The Petitioners state that the ability to regulate water in this manner reduces the need to directly recharge and subsequently extract supplemental groundwater. This exchange mechanism would also be on a balanced exchange or one-for-one basis and only occur if MWDSC has a positive balance in AEWS's groundwater banking facilities.

Spill Prevention Program:

In the event that hydrologic conditions are such that AEWS believes that there may be limited availability to carry over 2019 CVP water supplies in CVP reservoirs, AEWS's CVP water supplies would be delivered to MWDSC to reduce the risk of spill and subsequent potential loss of water supplies. The CVP water would be delivered to MWDSC by exchange in San Luis Reservoir or directly into the California Aqueduct via the Friant Kern Canal and AEWS or CVC facilities. MWDSC is willing to provide water management services to assist in regulating the available CVP supplies.

MWDSC would receive AEWS's CVP water prior to spill and, at a later time, return a lesser amount (return 2 af for every 3 af received) to AEWS. The unbalanced nature of the exchange reflects the compensation to MWDSC for their water management services, which will protect the water from spilling. In the absence of the exchange with MWDSC, AEWS would attempt to avoid spilling the water by delivering the available CVP contract supplies to groundwater banking programs within the AEWS service area or other areas that are within the CVP place of use.

e. Byron Bethany Irrigation District/Musco Olive Products Inc.

Byron Bethany Irrigation District (BBID) contracts with Reclamation for a water supply from the CVP. Musco Olive Products Inc. (Musco) has a water service contract with BBID and is within the CVP place of use. Pursuant to this contract, BBID is to provide up to 800 af per year of CVP water to Musco. Neither BBID nor Reclamation can physically convey CVP water to Musco, however Musco is located near SWP Reach 2A on the California Aqueduct (north of O'Neill Forebay). DWR would deliver up to 570 af of SWP water to Musco for BBID in exchange for an equivalent amount of CVP water delivered by Reclamation to DWR at O'Neill Forebay.

f. Tulare Lake Basin Water Storage District – Westlands Water District/San Luis Water District/Pleasant Valley Water District

Westlands and San Luis Water District (San Luis) are CVP contractors; a portion of the Pleasant Valley Water District (Pleasant Valley) is in the CVP place of use. Growers within Westlands, San Luis, and Pleasant Valley would execute an agreement with J.G. Boswell Company (Boswell), a local landowner within Tulare Lake Basin Water Storage District (TLBWSD), for the purchase of up to 65,000 af of Boswell's pre-1914 Kings River water. TLBWSD proposes to facilitate the transfer of its SWP water to Westlands, San Luis, and Pleasant Valley in exchange for up to 65,000 af of Boswell's pre-1914 Kings River water. TLBWSD's SWP water would be conveyed through the California Aqueduct and delivered to the growers within Westlands, San Luis, and Pleasant Valley that are within the CVP place of use.

g. Department of Veterans Affairs - San Joaquin Valley National Cemetery

The Department of Veterans Affairs - San Joaquin Valley National Cemetery (VA Cemetery) contracts with Reclamation for up to 850 af of CVP supply. The VA Cemetery is located near Reach 2B on the California Aqueduct (north of O'Neill Forebay). Reclamation is unable to directly convey CVP water to the VA Cemetery when the use of Joint Points of Diversion (JPOD) operations authorized under Revised Water Right Decision 1641 (D-1641) or the Delta-Mendota Canal/California Aqueduct Intertie is not available. DWR would deliver up to 850 af of SWP water to the VA Cemetery in exchange for an equivalent amount of CVP water delivered by Reclamation to DWR at O'Neill Forebay.

h. Transfer of San Joaquin River Restoration Program Recaptured Recirculation Flows to Dudley Ridge Water District

This is the same type of action as KCWA under section c(v). Lands within Dudley Ridge Water District (Dudley) would receive up to 3,000 af of SJRRP flows.

Potential Additional Transfers/Exchanges

The above transfers include all the specific transfers requested as of the date of the petition. However, SWP and CVP contractors propose to continue to explore other opportunities to retrieve previously stored Project supplies and optimize the delivery (quantity and timing) of their Project supplies from all available sources. The Petitioners anticipate that throughout the year more needs and opportunities for exchanging SWP and CVP water may be developed. The Petitioners request that any Order approving this petition includes the approval of potential future projects that meet certain specific criteria. In order to allow the State Water Board to make the findings required by Water Code Section 1725, the Petitioners have indicated that any project not specifically detailed in the transfers listed above would be conducted in accordance with the following criteria:

1. The transfer or exchange would not result in any increase in the amount of water diverted from the Delta. The water to be exchanged would be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta.
2. The water to be transferred or exchanged would have been consumptively used or stored in the absence of the transfer.
3. The total quantity of water delivered to SWP or CVP contractors as a result of the change will not exceed historic average deliveries.
4. The transfer or exchange will not result in the net loss of San Joaquin River or Sacramento River flow.
5. The transfer or exchange will not result in an increase in saline drainage to the San Joaquin River.
6. Prior to initiating any transfer or exchange not specifically listed above, DWR or Reclamation will provide the State Water Board with a description of the proposed transfer or exchange for review and approval.

7. DWR and Reclamation will develop, in coordination with State Water Board staff, a reporting plan that will account for all water transferred or exchanged under the provisions of any order approving the consolidated place of use. The reporting plan will include the parties to the transfer or exchange, how much water was to be transferred, how the water was made available, locations where groundwater levels or percolation to groundwater may be affected, and the facilities required to affect the transfer.

3.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

Pursuant to Water Code Section 1725, Petitioners have applied for temporary changes involving a transfer/exchange of water. The State Water Board shall approve temporary changes involving the transfer/exchange of water under Water Code Section 1725 et seq. if it determines that a preponderance of the evidence shows both of the following:

- a. The proposed changes would not injure any legal user of the water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed changes, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.
- b. The proposed changes would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b).)

In addition, the proposed changes must involve only the amount of water that would have been consumptively used or stored in the absence of the temporary changes. (*Id.*, § 1726, subd.(e).)

Temporary changes pursuant to Water Code Section 1725 may be effective for a period of up to one year from the date of approval. (Wat. Code, § 1728.) “The one-year period does not include any time required for monitoring, reporting, or mitigation before or after the temporary change is carried out.” (*Ibid.*)

The State Water Board considers the evaluation of public trust resources as part of its evaluation of impacts to fish, wildlife, or other instream beneficial uses under Water Code § 1727, subdivision (b)(2). The State Water Board also has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.)

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Petitioners filed the petition for a temporary transfer and change under Water Code Section 1725 et seq. Water Code Section 1729 exempts temporary changes involving a transfer or exchange of water from the requirements of CEQA (Pub. Resources Code, § 21000 et seq.). The State Water Board will file a Notice of Exemption.

5.0 PUBLIC NOTICE AND COMMENTS

On May 17, 2019, a 30-day public notice of the petition for temporary change was provided as follows: 1) via first class mail to interested parties; 2) by posting on the Division's website; 3) via the State Water Board's electronic subscription mailing list; and 4) by publication in the Fresno Bee. A comment letter was received on June 17, 2019, from California Water Research (CWR), California Sportfishing Protection Alliance, and California Water Impact Network, collectively (CWR et al.). The comment letter raised public interest and environmental concerns.

Water Code section 1726, subdivision (f) states that water users that may be affected by a temporary change or any other interested party may file a comment within 30 days of public notice of the petition. Although California Water Research, et al. submitted their comments on a "Protest" form, per Water Code section 1726, subdivision (f), it is considered a comment. More details on the comments and the response to the comment letter are shown below.

5.1 Summary of Comments Received

Comment 1 – Transfer Does Not Serve the Public Interest

The commenter states that the use by Reclamation of the Banks Pumping Plant can be accomplished under Decision 1641 by use of JPOD and that the transfer evades the requirement in Decision 1641 to prepare a fisheries protection plan to protect aquatic resources from the effects of Reclamation's use of the extra capacity at Banks. The commenters state that the requirement for the operations plan was the basis for the finding by the Board in Decision 1641 that joint operations of Project facilities would not unreasonably affect fish and wildlife.

Commenters also noted the abundant amount of water available in the 2018-2019 water year and indicate that the transfer/exchange is not required to remediate low surface water supply conditions. They also mentioned that the snowpack in the Southern Sierras peaked at 153% of normal this year, that Metropolitan Water District has record amounts of water into storage, and that Santa Clara Valley Water District also has abundant supplies. They suggest that Petitioners can remediate potential drawdown of

San Luis Reservoir by less aggressive drawdown of San Luis Reservoir to fill reservoirs in Southern California.

Comment 2 – The Transfer Would Be Contrary to Law

Commenters state the State Water Board, by approving a transfer in 2019, would fail to recognize that Reclamation is using serial transfers to evade permit requirements in Decision 1641 for use of JPOD. Commenters also state that the transfer evades the deadlines to put water to beneficial use in Reclamation's permits for the CVP. The commenters again refer to the fact that there is not a fishery protection plan for the use of JPOD. Finally, the commenters raise that Reclamation has not yet provided a CEQA document for Reclamation's petition for extension of time for its CVP permits.

Comment 3 – The Proposed Transfer Would Have Adverse Environmental Impacts

Commenters state that the Petitioners have not provided evidence in support of the assertion that the proposed transfer would not have adverse environmental impacts, and that the State Water Board has no basis for evaluating the impacts of the transfer without this evidence. The commenters also state that current SWP and CVP operations are impacting the environment, that Decision 1641 criteria are insufficient to protect public trust resources, and that pelagic fish populations are in a critical period of recovery following the 2013 – 2016 drought. The commenters also discuss Reclamation's plans regarding a 2009 biological opinion. The environmental impacts discussed are tied by the commenter to Delta exports and the possibility of these impacts to increase if Delta exports increase.

5.2 Summary of Petitioners Response to Comments

Comment 1 – Transfer Does Not Serve the Public Interest

The Petitioners responded to comments from CWR et al. and stated that this petition is a request to change place of use, not a request for JPOD. Therefore, the comments related to JPOD are not relevant. The Petitioners specifically indicated that the petition does not rely upon Stage 2 JPOD and is not a request for approval of a change in point of diversion (i.e., the use of Banks Pumping Plant by Reclamation). Moreover, the Petitioners indicated that the petition makes it clear that no additional pumping by these facilities is required to carry out the action described in the petition.

The Petitioners indicated that they stand by the stated need for the petition, to consolidate SWP and CVP places of use south of the Delta for operational flexibility. The commenters specifically did not offer an analysis of how potential San Luis Reservoir drawdown as a result of the actions described in the petition is not in the public interest, is contrary to law, or will have an adverse environmental impact.

Comment 2 – The Transfer Would Be Contrary to Law

The Petitioners again stated that this petition requests a change in place of use of the CVP and SWP south of the Delta, and not use of JPOD. They stated that the petition bears no relationship to Reclamation's petition for extension of time to put water to beneficial use for the CVP and that the petition does not require adjustment of other components of the long-term permits or reinitiation of consultation on fish and wildlife permits. The Petitioners further stated that DWR's preparation of an EIR for a new long-term operations plan is not related to the subject of this petition nor is Reclamation's Reinitiation of Endangered Species Act consultation. The Petitioners state that the commenters made no effort to tie any of these issues to the actions discussed in the petition and, as previously mentioned, the petition does not request the use of JPOD.

Comment 3 – The Proposed Transfer Would Have Adverse Environmental Impacts

The Petitioners indicated that with respect to the commenters claim of environmental impact from additional pumping from the Delta that the petition stated that the water to be exchanged/transferred would be part of any available Project allocations, water currently in San Luis Reservoir, or previously placed in groundwater storage south of the Delta. The Petitioners further indicated that the proposed exchanges/transfers would be conducted south of the Delta and would not affect pumping from the Delta and that the commenters did not include an analysis of how the subject petition would cause adverse impacts to fish populations.

5.3 State Water Board Evaluation and Consideration of Comments Received

Comment 1 – Transfer Does Not Serve the Public Interest

The commenters' have not provided any information to support their assertion that the proposed transfers and exchanges could be accomplished through the use of JPOD and the subject petition is an attempt to evade the requirements applicable to the use of JPOD. JPOD and the subject petition seek different types of changes to the CVP's and SWP's water rights for different purposes. In general, the use of JPOD allows Reclamation to increase CVP exports by using unused capacity in the SWP's Harvey O. Banks Pumping Plant. The subject petition, by contrast, would allow CVP water to be delivered and used within the SWP place of use, and vice versa. Approval of the petition would not authorize the use of JPOD, which remains subject to the requirements imposed pursuant to Decision 1641. Moreover, Petitioners submitted detailed information concerning the proposed transfers/exchanges of SWP and CVP water in support of their assertion that they will occur south of the Delta and will not involve any change in pumping amount at the Banks and Jones Pumping Plants. Conditions 5 through 10 of this Order will ensure that the transfers and exchanges will be implemented as described by Petitioners. This order is specifically conditioned such that no transfers are approved that would result in an increase in pumping levels from

the Delta beyond what would have occurred absent approval of this petition. The Order requires that the Petitioners provide an accounting to document that each transfer or exchange did not result in increased pumping from the Delta. Accordingly, as approved, the proposed change would not result in increased pumping from the Delta and any associated impacts to fish and wildlife. Submittal of a fish protection plan, which is a requirement of Stage 2 JPOD, is not required as a condition of the approval of this transfer/exchange.

Comment 2 – The Transfer Would Be Contrary to Law

Although this type of transfer/exchange has occurred for several years, this petition and previous petitions are not an attempt to avoid the limitations on the use of JPOD, as explained above. Also, the other permitting issues raised by the commenters', including Reclamation's petition for extension of time to put water to beneficial use under the CVP permits, are not relevant to the proposed change.

Comment 3 – The Proposed Transfer Would Have Adverse Environmental Impacts

As conditioned, the proposed transfers/exchanges will occur south of the Delta and there will be no change in the amount of SWP or CVP water diverted at Banks or Jones. Therefore, there will be no change in flow or water quality conditions in the Delta. All water exported at Banks and Jones is also required to be pumped consistent with the applicable regulatory restrictions governing SWP and CVP operations. There will also be no increase in either SWP or CVP allocations as a result of the proposed transfers/exchanges. There could be some shift in the timing of deliveries of SWP and CVP allocated supplies south of the Delta; however, this will not significantly affect streamflow. No measurable effects on fish, wildlife or other instream beneficial uses were noted from previous similar transfers/exchanges.

6.0 REQUIRED FINDINGS OF FACT FOR PROPOSED TRANSFERS/EXCHANGES IN PETITION

The following discussion and findings are applicable to the following transfers/exchanges proposed in the petition: (a) 75,000 af to Valley Water; (b) 3,000 af to Oak Flat/Del Puerto; (c) 139,300 af to various KCWA exchanges (d) 150,000 af to AEWSD/MWDSC; (e) 570 af to BBID-Musco; (f) 65,000 af to TLBWSD-Westlands/San Luis/Pleasant Valley; (g) 850 af to the VA Cemetery; and (h) 3,000 af to Dudley.

6.1 Transfer Only Involves Water That Would Have Been Consumptively Used or Stored

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer/exchange would only involve the amount of water that would have

been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code Section 1725 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.”

According to the petition and as conditioned, the temporary changes proposed will not result in the diversion of additional water from the Delta or the delivery of more water to any individual water supplier or user than has been delivered historically. The transfers/exchanges proposed by the petition, including any potential future transfers/exchanges meeting the criteria outlined above, involve water that is part of the SWP or CVP contractors allocated supplies, was diverted to storage and diverted from the Delta consistent with all applicable regulatory requirements, has been exported from the basin in which it was developed, and would clearly be consumptively used or stored in the absence of the transfers/exchanges.

The requested changes are expected to provide the operational flexibility the Projects need to get available supplies where they are needed most and in the most efficient manner possible. The transfers/exchanges are expected to allow agencies experiencing water supply restrictions to recover previously stored water or to optimize the beneficial use of their existing limited water supplies. The water proposed for transfer/exchange consists of either:

- a) Water stored pursuant to the specified permits of the CVP and SWP; or
- b) Water directly diverted pursuant to the specified license and permits of the CVP and SWP for use outside of the Delta watershed, and thus removed from use in the downstream water supply.

The direct diversion and collection of water to storage under the license and permits held by Petitioners may be subject to curtailment notices during the term of this transfer order. However, releases of water collected to storage prior to issuance of the curtailment notices are not subject to curtailment.

In light of the above, I find in accordance with Water Code Section 1726, subdivision (e) that the water proposed for transfer/exchange of DWR’s Permit 16479 and Reclamation’s License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 pursuant to this Order would be consumptively used or stored in the absence of the proposed temporary change.

6.2 No Injury to Other Legal Users of the Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the temporary change would not injure any legal user of the water during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, section 1727, subd. (b)(1).)

As conditioned, the changes approved in this Order will not result in any measurable changes to streamflow, water quality, timing of diversion or use, or return flows. The water to be transferred or exchanged is diverted out of the watershed from which it originates in conformance with the provisions of the respective Petitioners water right license and permits governing those diversions. There are no other legal users downstream of the points of diversion that would be affected by the transfers/exchanges.

The quantity and timing of diversions from the Delta will not change, however the delivery rates from San Luis Reservoir may be slightly different. The scheduling of the deliveries will be coordinated between Petitioners so as not to adversely impact any SWP or CVP contractor deliveries. The Petitioners indicate that adequate capacity in the California Aqueduct and in the Delta-Mendota Canal is available, and will not be adversely impacted as a result of the transfers/exchanges.

The transfers/exchanges are not expected to result in a measurable change in the quantity or quality of return flows. As conditioned, there will be no increase in either SWP or CVP diversions or allocations as a result of the proposed transfers/exchanges. There could be some shift in the timing of deliveries of SWP and CVP supplies. Transfers/exchanges similar to those proposed above were conducted in 2009, 2010, 2012, 2013, 2014, 2015, 2016, 2017, and 2018 consistent with the provisions of Order WR 2009-0033, Order WR 2010-0032-DWR, and the July 6, 2012; July 1, 2013; March 28, 2014; April 27, 2015; May 17, 2016; June 8, 2017, and July 2, 2018 State Water Board Orders approving DWR's and Reclamation's petitions for change to consolidate the authorized places of use of the SWP and CVP. No measurable effects on other legal users of water were noted from those transfers/exchanges.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not injure any legal user of the water.

6.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses

Before approving a temporary change in order to facilitate a transfer or exchange of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, section 1727, subd. (b)(2).) In accordance with California Code of Regulations section 794 (c), Petitioners provided California Department of Fish and Wildlife (CDFW) and the applicable Regional Water Quality Control Boards (Regional Board) with a copy of the petition. CDFW and the Regional Board did not provide any information regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

As conditioned, there will be no change in the amount of SWP or CVP water diverted at Banks or Jones. Therefore, there should be no change in flow or water quality conditions in the Delta. All water exported at Banks and Jones is required to be pumped consistent with the applicable regulatory restrictions governing SWP and CVP operations.

The transfers/exchanges will not result in a measurable change in quantity or quality of return flows. There will be no increase in either SWP or CVP allocations as a result of the proposed transfers/exchanges. There could be some shift in the timing of deliveries of SWP and CVP allocated supplies south of the Delta; however, this will not significantly affect streamflow.

Transfers/exchanges similar to those proposed above have been implemented in previous years by both DWR and Reclamation. No measurable effects on fish, wildlife or other instream beneficial uses were noted from those transfers/exchanges. In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(2) that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not unreasonably affect fish, wildlife, or other instream beneficial uses.

7.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in Section 4.4.2 of Resolution 2012-0029 and the Deputy Director for Water Rights redelegation of authority dated October 19, 2017.

8.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I find as follows regarding DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, for the following transfers/exchanges proposed in the petition: (a) 75,000 af to Valley Water; (b) 3,000 af to Oak Flat/Del Puerto; (c) 139,300 af to various KCWA exchanges; (d) 150,000 af to AEWSD/MWDSC; (e) 570 af to BBID-Musco; (f) 65,000 af to TLBWSD-Westlands/San Luis/Pleasant Valley; (g) 850 af to the VA Cemetery; and (h) 3,000 af to Dudley.

I conclude that, based on the available evidence:

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

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use, under DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 for transfer of up to 436,720 af of water involving transfers or exchanges outlined below is approved.

All existing terms and conditions of DWR's and Reclamation's subject license and permits remain in effect, except as temporarily amended by the following provisions:

1. The transfers/exchanges of water are limited to the period commencing on the date of this approved Order, and continuing for one year from the date of approval.
2. The place of use under DWR's Permit 16479 is temporarily expanded to include portions of the CVP service area shown on the map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to SWP Authorized Place of Use*, Map 214-202-83.
3. The place of use under Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 is temporarily expanded to include portions of the SWP

service area as shown on the map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use, Map 214-202-84.*

4. Water transferred/exchanged pursuant to this Order shall be limited to 436,720 af as follows: (a) 75,000 af to Valley Water; (b) 3,000 af to Oak Flat/Del Puerto; (c) 139,300 af to various KCWA exchanges; (d) 150,000 af to AEWSD/MWDSC; (e) 570 af to BBID-Musco; (f) 65,000 af to TLBWSD-Westlands/San Luis/Pleasant Valley; (g) 850 af to the VA Cemetery; and (h) 3,000 af to Dudley. Although the transfer limits water service as noted herein, the one-for-one repayment of exchanged transfer water is not limited to service areas (a) through (h), but may occur within the more general service areas shown on Maps 214-202-83 and 214-202-84.
5. This approval is limited to the transfers/exchanges identified and described in this Order and as specified in Condition 4 and, upon approval, additional south-of-Delta transfers/exchanges that meet the criteria set forth in this Order. This approval does not extend to any transfers/exchanges under DWR's or Reclamation's water rights in excess of the total of 436,720 af authorized under this Order. The transfers/exchanges identified in this Order and any future transfers/exchanges are limited as follows: 1) The transfers or exchanges shall not result in any increase in the amount of water diverted from the Delta or in an increase in contract allocations; 2) The water to be exchanged shall be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta; 3) The water to be exchanged or transferred must have been consumptively used or stored in the absence of the transfer; 4) The total quantity of water delivered to SWP or CVP contractors as a result of the change shall not exceed historic average deliveries; 5) The transfer or exchange shall not result in the net loss of San Joaquin River or Sacramento River flow; and 6) The transfer or exchange shall not result in an increase in saline drainage to the San Joaquin River.

If a south-of-Delta transfer/exchange is not specifically identified and described in this Order, the transfer/exchange may occur only after the Deputy Director of Water Rights determines that the transfer/exchange will be implemented in accordance with the conditions of this Order. Requests should be addressed to the Deputy Director of Water Rights. Petitioners should anticipate a determination on the requests no sooner than five (5) full business days after submittal. Requests should be submitted on the form entitled "Petition for Change Involving Water Transfers" available on the Division's website. Petitioners should annotate "Request per Consolidated Place of Use Order" at the top of the form. The request shall include a description of the total amount authorized by this Order, and how the amount authorized of 436,720 af will not be exceeded with the additional transfers/exchanges.

6. If at any time prior to, or during the period of the transfer, the State Water Board issues a notice of water unavailability pursuant to the water rights involved in the transfer/exchange, only water collected to storage prior to issuance of the notice of water unavailability may be transferred.
7. Carriage loss shall be deducted from any water transferred through the Delta and delivered under this Order.
8. Diversion of water at the Delta Pumps is subject to compliance by the operators with the objectives currently required of Petitioners set forth in Tables 1, 2, and 3 on pages 181-187 of State Water Board Decision 1641, or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at those points of diversion/rediversion, including compliance with the various plans required under Decision 1641 as prerequisites for the use of the Joint Points of Diversion by Petitioners, as amended by the documents cited in Condition 10. Diversion of water is also subject to compliance by Petitioners with all applicable federal and State Endangered Species Act requirements (ESA), including applicable Biological Opinions (BOs), Incidental Take Permits (ITP), court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
9. Diversion of water at the Delta Pumps is also subject to compliance with any State Water Board Orders establishing temporary or interim operating conditions during the transfer period, except if the State Water Board has specifically exempted conveyance of transfer water from the Order.
10. The transfer period authorized above is further limited to the period allowed pursuant to any applicable BO, ITP, or federal or State ESA requirements related to transfers at the Delta Pumps. Petitioners shall provide documentation of the diversion period allowed pursuant to the BOs or consultations prior to transfer of water. Such documentation may include an electronic link to any transfer BOs, ITPs, or other federal or State ESA consultations, informal consultations, opinions, or other documents issued by the California Department of Fish and Wildlife, National Marine Fisheries Service, or U.S. Fish and Wildlife Service.
11. By the 20th day of each month following approval of this Order, the Petitioners shall electronically submit a monthly report detailing the amounts transferred or exchanged in the previous month. Data used to generate the report shall be provided electronically in a comma-separated values (.csv) file format and shall be compatible with an open data portal platform related to Assembly Bill 1755. All water transferred/exchanged shall also be documented and accounted for by each purpose of use. The report shall document, listed by specific transfer/exchange, the dates of the transfers/exchanges that have occurred, the transaction method (transfer or exchange), the amount transferred/exchanged between each project (CVP or SWP), gains or losses in groundwater banks, how much remains in each authorized transaction, and how much remains of the total authorized amount.

12. Within 90 days of the completion of the transfer, the Petitioners shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. Data used to generate the report shall be provided electronically in a comma-separated values (.csv) file format and shall be compatible with an open data portal platform related to Assembly Bill 1755. The report shall include the following information:
- a. The monthly and total amounts of transfer water delivered to Valley Water; Oak Flat/Del Puerto; various KCWA exchanges; AEWSD/MWDSC; BBID-Musco; TLBWSD-Westlands/San Luis/Pleasant Valley; the VA Cemetery; Dudley; and any entities receiving transfer water in accordance with Condition 5.
 - b. The monthly and total amounts of water delivered to Valley Water; Oak Flat/Del Puerto; various KCWA exchanges; AEWSD/MWDSC; BBID-Musco; TLBWSD-Westlands/San Luis/Pleasant Valley; the VA Cemetery; Dudley; and any other entities receiving transfer water in accordance with Condition 5 for the period covered by this transfer. This total shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each location received.
 - c. Documentation that the water transferred/exchanged did not result in any increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.
13. 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 use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.
14. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California ESA (Fish & G. Code, §§ 2050-2097) or the federal ESA (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this transfer, the Petitioners shall obtain authorization for an incidental take permit prior to construction or operation. Petitioners shall be

responsible for meeting all requirements of the applicable ESA for the temporary transfer authorized under this Order.

15. The State Water Board reserves authority to supervise the transfer, exchange, and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY: DIANE RIDDLE FOR

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: JUL 15 2019