

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

**DIVISION OF WATER RIGHTS**

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**IN THE MATTER OF WATER RIGHT LICENSE 2184 (APPLICATION 1692)  
OF EL DORADO IRRIGATION DISTRICT**

**PETITION FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF UP TO  
750 ACRE-FEET OF WATER TO STATE WATER PROJECT AND CENTRAL VALLEY  
PROJECT CONTRACTOR AGENCIES**

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SOURCE: North Fork Weber Creek

COUNTY: El Dorado

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**ORDER APPROVING TEMPORARY CHANGES**

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

**1.0 OVERVIEW**

On June 14, 2024, El Dorado Irrigation District (EID or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a petition for temporary change (Petition) involving the transfer of water under water right License 2184 (Application 1692), pursuant to Water Code section 1725 et seq. Under the proposed transfer, up to 750 acre-feet (af) of water will be transferred to the participating State Water Project (SWP) Contractor Agencies south of the Delta, hereinafter collectively referred to as SWP Contractor Agencies, and Central Valley Project (CVP) Contractor Agencies south of the Delta, hereafter collectively referred to as CVP Contractor Agencies. The temporary changes approved pursuant to Water Code section 1725 under this petition may be effective until November 30, 2024.

**2.0 TRANSFER TYPE**

Petitioner proposes to make water available by releasing water that would otherwise be stored in Weber Reservoir (Reservoir) under License 2184.

## **2.1 Reservoir Release**

Under a reservoir release transfer, surface water supply is made available for transfer as a result of a petitioner releasing water held in storage that would remain in storage if the transfer were not to occur. The transfer proposed by EID involves water currently stored in the Reservoir. Following the transfer, the Reservoir may have additional storage capacity that will result in diversion that would not occur in the absence of the transfer, referred to as reservoir refill. Reservoir refill has the potential to injure other legal users of water if it occurs when the San Francisco Bay/Sacramento-San Joaquin Delta (Delta) is in balanced conditions<sup>1</sup> or there is limited streamflow in the channel from which the water is being transferred.

Refill criteria developed in conjunction with the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) can ensure that the future refill of the reservoir space made available in the Reservoir from this transfer does not adversely impact other legal users of water.

## **3.0 PETITIONS FOR TEMPORARY CHANGE INVOLVING TRANSFER**

### **3.1 Summary of EID's License**

*License 2184 (Application 1692)*

License 2184 authorizes collection to storage of up to 1,125 af per year of water in the Reservoir from October 15 of each year to May 15 of the succeeding year from North Fork Weber Creek. The maximum withdrawal in any one year from the Reservoir shall not exceed 1,000 af. The license requires an annual minimum storage of 200 af on September 1, and minimum releases not less than 1 cubic foot per second (cfs) to protect and enhance wildlife, and recreation in Weber Creek downstream of the Reservoir when reservoir storage is available. Weber Reservoir Dam is the existing point of diversion and Folsom Reservoir Pump Station is the existing point of rediversion under License 2184. The existing purpose of use and place of use under License 2184 includes:

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<sup>1</sup> The Delta is in balanced conditions when the SWP and CVP agree that releases from upstream reservoirs, plus unregulated flow, approximately equal water supply needed to meet Sacramento Valley in-basin uses and Project exports. During balanced conditions in the Delta when water must be withdrawn from storage to meet Sacramento Valley and Delta requirements, 75 percent of the responsibility to withdraw from storage is borne by the CVP and 25 percent by the SWP.

1. Fish and Wildlife Preservation and Enhancement and Fire Protection uses at the Reservoir within SW $\frac{1}{4}$  of Section 35, T1S, R3E, MDB&M, and Fish and Wildlife Preservation and Enhancement and Recreation uses within North Fork Weber Creek, Weber Creek, and South Fork American River from Weber Reservoir Dam to Folsom Reservoir.
2. Municipal, Industrial, Irrigation, and Fire Protection uses within the boundaries of EID comprising 30,702 acres as shown on map dated April 8, 1927, filed with the State Water Board and El Dorado Hills area as shown on map dated January 26, 2006, filed with the State Water Board.

The SWP and CVP Contractor Agencies would use the transfer water predominantly for irrigation, municipal, or industrial uses in their service area so no change in purpose of use is proposed.

### **3.2 Description of the Proposed Temporary Changes**

In order to facilitate the transfer, EID proposes to temporarily add the following to License 2184:

- 1) CVP's C.W. Bill Jones Pumping Plant (Jones Pumping Plant) as a point of rediversion, located within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 29, T1S, R4E, MDB&M;
- 2) SWP's Harvey O. Banks Pumping Plant (Banks Pumping Plant) as a point of rediversion, located within NW  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of projected Section 20, T1S, R4E, MDB&M;
- 3) San Luis Reservoir as a point of rediversion, located within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 15, T10S, R8E, MDB&M; and
- 4) A portion of the service areas of the CVP and SWP as additional places of use.

EID will make surface water available for temporary transfer via reservoir release. Absent the proposed temporary change, the transferred water would remain in storage in the Reservoir. Water would be delivered for use in the CVP or SWP's service area via releases from the Reservoir to Folsom Reservoir to Lake Natoma, thence the Lower American River, thence the Sacramento River to the Delta for rediversion at the CVP Jones Pumping Plant or SWP Banks Pumping Plant, thence the Delta-Mendota Canal or California Aqueduct to CVP or SWP Contractor Agencies, or to the San Luis Reservoir for rediversion, thence the San Luis Canal, and delivery to the CVP or SWP Contractor Agencies.

#### **4.0 PUBLIC NOTICE AND COMMENTS ON THE PROPOSED TRANSFER**

On June 14, 2024, public notice of the proposed transfer was provided by posting on the Division's website and via the State Water Board's electronic subscription mailing list. The comment deadline was July 15, 2024. Timely comments on the proposed transfer were received from the California Department of Fish and Wildlife (CDFW), DWR, and Reclamation. Petitioner provided responses to timely comments by letters to the Division dated July 9, 2024, and July 15, 2024. The letters are available in the record for License 2184.

#### **4.1 Comments of CDFW**

As part of the Division's streamlined noticing process, CDFW provided comments to EID prior to petition submittal. CDFW had concerns over the potential direct and cumulative adverse impacts from changes to the quantity, timing, and duration of reservoir releases and their potential impacts to sensitive species within the watershed and downstream watercourses. Rapid flow fluctuations and the resulting sudden increases in river stage can significantly affect aquatic species, such as Foothill Yellow-legged frog. Additionally, CDFW indicated that alternating the pattern of reservoir releases or block releases of transfer water have the potential to affect water temperature and cold-water pool storage.

CDFW recommended careful transfer operations to avoid swift up- or down-ramping or spills and for EID to provide the specific transfer release schedule that identifies planned release volumes, rates, and timing to CDFW for consultation to ensure potential flow impacts to sensitive species are mitigated. In addition, CDFW recommended close coordination with regulatory agencies on the release timing of the transfer to maximize cold-water pool gains and minimize cold-water pool loss.

#### **Petitioner Response**

Petitioner stated that the transfer would follow approved ramping rates and a release pattern that complies with all measures to protect fish and wildlife and is consistent with CDFW's recommendations. The Petitioner provided data from a similar water transfer from 2022 that indicated that the transfer is not anticipated to impact water temperatures or cold-water pool storage in Folsom Reservoir given the small volume of compared to the total South Fork American River inflow, and it would not affect Reclamation's ability to meet temperature goals in the Lower American River in 2024.

### State Water Board Response

While the 2024 water transfer might be of similarity in terms of rate and volume than that of the 2022 transfer, using 2022 data to address potential impacts for the 2024 water transfer may not be adequate as hydrologic conditions vary every year. Thus, the Order is conditioned to require that EID coordinate with Reclamation regarding the transfer and ongoing real-time operations of the CVP. To mitigate potential flow impacts to sensitive species, this Order is also conditioned to require EID to consult and provide CDFW with a specific transfer release schedule.

### **4.2 Comments of DWR**

By letter dated July 11, 2024, DWR commented on EID's proposed water transfer. DWR requested that the Order approving the proposed transfer be subject to a refill agreement between EID, DWR, and Reclamation. Additionally, DWR requests that EID submit a complete transfer proposal using DWR's Water Transfers Information Management System (WTIMS) online database at <https://info.water.ca.gov/wtims/>, and provide 1) a copy of all the reports pursuant to this Order, and 2) the monthly refill accounting reports after the transfer is complete.

DWR stated that as of July 11, 2024, there is expected to be no available capacity to transport transfer water at either Banks or Jones Pumping Plant in 2024. Both Banks and Jones Pumping Plants are anticipated to be fully utilized, leaving no room for additional water transfers.

### Petitioner Response

EID agrees that the transfer be subject to refill criteria specified in a refill agreement between EID, DWR, and Reclamation. EID also agrees to enter the transfer information into WTIMS and provide all reports required by this Order and monthly refill reports to DWR.

EID acknowledges that there is expected to be no capacity to convey transfer water at either Banks or Jones Pumping Plant. However, EID elected to proceed with the proposed transfer should capacity become available during the 2024 transfer period.

### State Water Board Response

This Order includes a condition requiring EID to obtain a reservoir refill agreement with DWR and Reclamation prior to initiating the transfer. In addition, the State Water Board has included a condition in this Order for the Petitioner to enter the transfer information in WTIMS. Although it is expected that there will be no capacity to transport transfer water at either Banks or Jones Pumping Plant, this Order is conditioned that the

proposed transfer be contingent upon the availability of capacity at Banks or Jones Pumping Plant should it becomes available during the 2024 transfer period.

#### **4.3 Comments of Reclamation**

By letter dated July 15, 2024, Reclamation commented on EID's proposed water transfer. Reclamation requested that the Order approving the proposed transfer be contingent upon a refill agreement between Reclamation and EID and include the following conditions to protect Reclamation's water rights and operations for the American River.

- 1) The transfer is subject to the refill criteria specified in a refill agreement between EID and Reclamation.
- 2) EID should coordinate with Reclamation on the Folsom Reservoir operations schedule as part of on-going real-time operations for the CVP. No water can be transferred unless Reclamation concurs that the transfer will not result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir resulting from incoming transfer water.
- 3) The proposed water transfer shall be carried out in compliance with all existing regulatory constraints in the Delta and shall cause no harm to other legal water users or impact on water quality.
- 4) EID shall enter into a contract with Reclamation under the Warren Act for the use of the Jones Pumping Plant, or any other Reclamation facility involved in the transfer.

#### Petitioner Response

The Petitioner indicated that they do not object to the conditions proposed by Reclamation. The Petitioner agreed that a Warren Act Contract for the use of federal facilities is required for the proposed transfer. However, EID indicated that the Warren Act Contract is between the CVP Contractor Agencies and Reclamation rather than between EID and Reclamation.

#### State Water Board Response

This Order includes a condition requiring EID to obtain a reservoir refill agreement with Reclamation and DWR prior to initiating the transfer. This Order also includes a condition that requires any Warren Act contracts be executed prior to the use of the Jones Pumping Plant, or any other Reclamation facilities for water delivery under the transfer.

## **5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Water Code section 1729 exempts temporary changes involving a transfer of water from the requirements of the California Environmental Quality Act. (Pub. Resources Code, § 21000 et seq.) The State Water Board will file a Notice of Exemption for this project following the issuance of this Order.

## **6.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES**

Pursuant to Water Code section 1725, “a permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses.” (Wat. Code, §1725 and 1725.5.)

The State Water Board shall approve a temporary change involving the transfer of water under Water Code section 1725 et seq., if it determines that a preponderance of the evidence shows both of the following:

The proposed change would not injure any legal user of 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 water, or reduction in return flows.

The proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses.

(Wat. Code, § 1728, subd. (b).)

In addition, the proposed change must involve only the amount of water that would have been consumptively used or stored in the absence of the temporary change. (*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, § 1725.5.) “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 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.) 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 section 1728, subdivision (b)(2).

## **7.0 REQUIRED FINDINGS OF FACT**

### **7.1 Availability of Water for Transfer**

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Water Code section 1011. (Wat. Code, §§ 1725, 1725.5, 1726.) Water Code section 1725.5 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.” The water proposed for transfer is currently stored in Weber Reservoir pursuant to the terms of License 2184. As of August 2, 2024, Weber Reservoir held approximately 887 af of water in storage. EID indicated the transfer water would have remained in storage in the Reservoir in the absence of the proposed transfer.

The State Water Board conducted an independent evaluation of its records. The annual use under License 2184 was 337 af, 1,000 af, 0 af, 479 af, and 1,000 af during 2019, 2020, 2021, 2022, and 2023, respectively. The maximum authorized storage is 1,125 af under License 2184 and the minimum storage must be 200 af on September 1. EID indicated that the Reservoir storage is forecasted to decrease to 278 af with the transfer on September 30, 2024 which is well above the minimum level of 200 af on September 1.

In light of the above, and in accordance with Water Code section 1726, subdivision (e), the State Water Board finds that the water proposed for transfer pursuant to this Order would be stored in the absence of the proposed temporary change.

### **7.2 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 transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the



proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code §1728, subd. (b)(1).)

This Order requires EID to comply with refill criteria to ensure that future refill of the reservoir space made available in the Reservoir from this transfer does not adversely impact the SWP or CVP. EID has indicated it has sufficient supply to continue the same surface water deliveries to its existing customers with or without the proposed temporary water transfer. In addition, EID is required to release water to meet its other existing downstream commitments and requirements on North Fork Weber Creek; this approval does not change those obligations. Therefore, there will be no downstream change of the streamflow, water quality, timing of diversion, return flows, effects on legal users of water, or change in the purposes of use authorized by License 2184 during the period of the proposed temporary transfer.

In light of the above, I find in accordance with Water Code section 1728, subdivision (b)(1) that the proposed temporary transfer will not injure any legal user of the water.

### **7.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses**

Before approving a temporary change in order to facilitate a transfer 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, § 1728, subd. (b)(2).) The Petitioner provided CDFW and the Central Valley Regional Water Quality Control Board (Central Valley Water Board) with a copy of the petition in accordance with California Code of Regulations, title 23, section 794, subdivision (c). CDFW provided comments regarding the transfer as described in Section 4.1 of this Order. Conditions 8 and 9 has been included in this Order based on CDFW's comments. The Central Valley Water Board did not provide any comments to the State Water Board regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

In general, North of Delta transfers result in an incremental increase in instream flows between the Petitioner's point of diversion and the location where the water is removed from the stream system. The increase in flows is not anticipated to be harmful to instream resources, provided that the transfer water does not cause instream temperatures to increase to harmful levels and also does not result in false fish attraction flows to streams not suited for fish rearing. No information is available that suggests the transfer flows will contribute to false fish attraction flows or significantly change stream temperatures or water quality. The transfer will also be subject to all applicable Federal and State Endangered Species Act requirements, including applicable biological opinions, Incidental Take Permits, court orders, and any other conditions imposed by other regulatory agencies applicable to diversion and exports of water at the SWP and CVP Delta pumps.

In light of the above, and in accordance with Water Code section 1728, subdivision (b)(2), the State Water Board finds that, as conditioned, the proposed transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.

## **8.0 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 April 20, 2023.

## **9.0 CONCLUSIONS**

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1728, and therefore I find as follows:

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 neither injure, nor unreasonably affect, any legal user of water, including during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.
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 to transfer up to 750 acre-feet (af) of water under El Dorado Irrigation District's (EID or Petitioner) License 2184 is approved.

All existing conditions of License 2184 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on the date of this Order and continuing through November 30, 2024.
2. The following points of diversion are temporarily added to License 2184:

Central Valley Project's (CVP) C.W. Bill Jones Pumping Plant (Jones Pumping Plant):

California Coordinate System of 1983 (CCS83), Zone 3, North 2,121,505 feet and East 6,255,368 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 29, T1S, R4E, MDB&M.

State Water Project's (SWP) Harvey O. Banks Pumping Plant (Banks Pumping Plant):

CCS83, Zone 3, North 2,126,440 feet and East 6,256,425 feet being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 20, T1S, R4E, MDB&M.

San Luis Reservoir:

CCS83, Zone 3, North 1,845,103 feet and East 6,393,569 feet, being within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 15, T10S, R8E, MDB&M.

The place of use under License 2184 is temporarily expanded to include the service areas of the CVP and SWP. The service areas are shown on the SWP service area map, Map 1878-1, 2, and 3 and on the CVP, Map 214-202-84 on file with the Division of Water Rights.

3. Water may only be transferred under this Order if there is available pumping capacity at either Jones or Banks Pumping Plant during the period of transfer. EID shall provide confirmation to the Deputy Director for Water Rights (email confirmation is acceptable) within 15 days following the availability of pumping capacity at either the Jones or Banks Pumping Plant.
4. Carriage loss shall be deducted from any water transferred through the Delta and delivered under this Order.

5. Rediversion of water at either the Jones or Banks Pumping Plant is subject to compliance by the operators with the objectives currently required of Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation) set forth in Tables 1, 2, and 3 on pages 181-187 of State Water Resources Control Board Revised Water Right Decision 1641 (D-1641), or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at that point of diversion, including compliance with the various plans required under D-1641. Diversion of water is also subject to compliance by DWR and Reclamation with all applicable biological opinions and court orders and any other conditions imposed by other regulatory agencies applicable to these operations.
6. Rediversion of water at either the Jones or Banks Pumping Plant 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.
7. Petitioner shall ensure that any required Warren Act contracts are executed prior to use of the Jones Pumping Plant, or any other Reclamation facility for this transfer. Petitioner shall provide confirmation to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 30 days of issuance of this Order.
8. Prior to transferring water, EID shall consult and provide the California Department of Fish and Wildlife (CDFW) with a specific release schedule as indicated in CDFW's January 30, 2024 response letter for this transfer. Petitioner shall provide confirmation to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 15 days after Petitioner consults with CDFW.
9. EID must coordinate with Reclamation on the Folsom operations schedule as part of on-going real-time operations for the CVP. No water shall be transferred under this Order unless Reclamation concurs that the transfer will not result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir resulting from incoming transfer water. Petitioner shall provide documentation to the Deputy Director for Water Rights by email showing Reclamation's concurrence within two weeks of receipt of the concurrence.
10. Water may not be transferred through the Jones or Banks Pumping Plants until EID has executed a Refill Agreement between DWR, Reclamation, and EID to address potential refill concerns in Weber Reservoir. Documentation that an acceptable Refill Agreement has been agreed to by DWR and Reclamation and EID shall be submitted to the Deputy Director for Water Rights within 15 days of the date of execution of the agreement. The refill criteria shall govern the

conditions under which refill of the water released pursuant to this Order occurs, including the conditions under which refill impacts may accrue and how EID shall rectify any impacts. At the conclusion of refilling water in the Reservoir for the water released pursuant to this Order, if a refill impact has occurred, EID shall release the amount of water identified in the refill criteria to DWR and Reclamation in a manner and on a schedule agreed to between EID, DWR, and Reclamation. Any release required pursuant to this paragraph shall be conducted in a manner that does not injure any legal user of water and does not unreasonably affect fish, wildlife, or other instream beneficial uses.

11. EID shall utilize the Water Transfers Information Management System (WTIMS) to document this transfer by entering the data identified by WTIMS for reservoir re-operation transfers applicable to the transfer approved by this Order.
12. Within 90 days of completion of the transfer, EID shall provide the Deputy Director for Water Rights a report including one or more tables describing the transfer authorized by this Order. The report shall include the following information:
  - a. The general location of where the water was delivered, and the acreage and/or population served by water delivered to SWP and/or CVP Contractor Agencies;
  - b. The average daily release rates and corresponding volume of water released from Weber Reservoir as a result of this transfer (reported on a daily basis);
  - c. For each day of the transfer, the daily average rate of water diverted at Weber Reservoir and daily volume of water re-diverted at the Banks or Jones Pumping Plant pursuant to this Order;
  - d. The daily amounts of water delivered to the SWP and/or CVP Contractor Agencies pursuant to this Order;
  - e. The amount of the Refill Reservation as defined in the Refill Agreement (reported on a daily basis); and
  - f. Recognizing that reservoir refill will occur after the transfer ends, monthly reporting of reservoir refill is not required during the transfer period. However, EID shall provide reservoir refill reporting in its Report of Licensee by February 1 of each year on monthly reservoir refill until the reservoir Refill Agreement has been satisfied. This occurs when the value of the Refill Reservation, as defined in the Refill Agreement, equals zero. These reports shall include the daily values of the Refill Reservation.

If any of the above required information is in the possession of Reclamation and has not been provided to EID in time for inclusion in a submittal, EID shall provide the information to the Deputy Director for Water Rights within 30 days of receipt.

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 diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water. The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.
14. 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 (ESA) (Fish & G. Code, § 2050 et seq.) or the federal ESA (16 U.S.C. §§ 1531-1544). If a “take” will result from any act authorized under this Order, right holder shall obtain authorization for an incidental take prior to commencing the transfer of water. Right holder 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:

*Erik Ekdahl, Deputy Director  
Division of Water Rights*

Dated: AUG 9 2024