

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF WATER RIGHT PERMIT 13856 (APPLICATION 18085)
OF PLACER COUNTY WATER AGENCY**

**PETITION FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF UP TO
21,053 ACRE-FEET OF WATER TO WESTLANDS WATER DISTRICT**

SOURCES: Duncan Canyon, North Fork American River, Middle Fork American River,
and Rubicon River

COUNTIES: Placer and Sacramento

ORDER APPROVING TEMPORARY CHANGES

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 OVERVIEW

On June 5, 2026, Placer County Water Agency (PCWA 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 Permit 13856 (Application 18085), pursuant to Water Code section 1725 et seq. Under the proposed transfer, up to 21,053 acre-feet (af) of water will be transferred to Westlands Water District (Westlands).

1.1 BACKGROUND

The Middle Fork American River Project

PCWA owns and operates the Middle Fork American River Project (MFP or MFAR Project) and holds appropriative water rights for the MFP under Permits 13856 and 13858 (Applications 18085 and 18087). The permits allow for a total direct diversion amount of 2,025 cubic feet per second (cfs) from November 1 of each year to July 1 of the succeeding year from North Fork American River and for a combined diversion to storage of 315,000 af per annum of MFP water held in French Meadows Reservoir

(located on the Middle Fork American River) and Hell Hole Reservoir (located on the Rubicon River). The MFP is a multi-purpose project designed to conserve waters of the Middle Fork American River, the Rubicon River, and tributaries for domestic, municipal, industrial, recreational, and irrigation uses, as well as for hydroelectric power generation. The MFP's principal project features include French Meadows Reservoir and Hell Hole Reservoir, five associated diversion dams (Duncan, North Fork Long Canyon, South Fork Long Canyon, Middle Fork Interbay, and Ralston Afterbay), and five power plants (French Meadows, Hell Hole, Middle Fork, Ralston, and Oxbow).

PCWA has determined that it has at least 21,053 af of surplus water stored in the MFP. PCWA states that the filling of the MFP reservoirs occurred much earlier than usual due to record warm temperatures early in the winter season and near record low snowpack. The MFP combined peak storage of 329,000 af occurred on April 27, 2026, which is 96% capacity and approximately 140% of historical (1966-2025) storage for May 1.

PCWA would be solely exercising Permit 13856 for the proposed transfer of up to 21,053 af of water to Westlands. In the absence of this transfer, the total 21,053 af of water would remain in storage in PCWA's MFP reservoirs.

Westlands Water District

Westlands was formed in 1952 and encompasses more than 600,000 acres of farmland in western Fresno and Kings Counties. The District serves approximately 600 family-owned farms that average 900 acers in size.

According to information provided in the petition, Westlands is interested in augmenting its water supply with PCWA's transfer water because the Central Valley Project (CVP) south of Delta contracted water allocations are only 25 percent for irrigation contractors in 2026. The additional water would provide Westlands' agricultural customers with a water supply for irrigation of crops.

2.0 TRANSFER TYPE

Petitioner proposes to make water available by releasing water that would otherwise be stored in Hell Hole Reservoir and French Meadows Reservoir under Permit 13856.

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 otherwise remain in storage if the transfer were not to occur. The transfer proposed by PCWA involves water currently stored in Hell Hole Reservoir and French Meadows Reservoir. Following the transfer, the reservoirs may have additional storage capacity that will

result in diversions that would not occur in the absence of the transfer, referred to as a reservoir refill. Reservoir refill has the potential to injure other legal users of water if it occurs when the Delta is in balanced condition¹ or there is limited streamflow in the channel from which the water is being transferred. The Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), dated December 2019, prepared by the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) describes data and criteria for ensuring that reservoir refill does not impact other users of water, including the CVP and State Water Project (SWP). Section 4 of the Draft Technical Information and Appendix B outline the information used to develop refill criteria.

Refill criteria developed in conjunction with Reclamation and DWR can ensure that future refill of the reservoir space made available in Hell Hole Reservoir and French Meadows Reservoir from this transfer does not adversely impact other legal users of water.

3.0 PETITIONS FOR TEMPORARY CHANGE INVOLVING TRANSFER

3.1 Description of the proposed temporary changes

To facilitate the transfer, PCWA proposes to temporarily add the following to Permit 13856:

The United States Department of the Interior Bureau of Reclamation (Reclamation) Central Valley Project (CVP) Bill Jones Pumping Plant (Jones) intake facility as a point of rediversion; and

The California Department of Water Resources (DWR) State Water Project (SWP) Harvey O. Banks Pumping Plant (Banks) as a point of rediversion; and

The San Luis Reservoir as a point of temporary storage and point of rediversion; and
The Westland Water District service area as an additional place of use.

PCWA proposes to transfer up to 21,053 af of water (“transfer water”) currently stored in the MFP, which includes Hell Hole Reservoir on the Rubicon River and French Meadows Reservoir on the Middle Fork American River, to Westlands. The transfer water would be released from Hell Hole Reservoir, through Middle Fork Powerhouse, and rediverted to Ralston Afterbay and released to the Middle Fork American River via

¹ 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.

the Oxbow Powerhouse. Water from Oxbow Powerhouse flows down the Middle Fork American River to the North Fork American River and into Folsom Reservoir. Water from French Meadows Reservoir would be conveyed to Hell Hole Reservoir via the French Meadows – Hell Hole Tunnel, before it is released from Hell Hole Reservoir and conveyed to Folsom Reservoir.

Subsequent release of the transfer water at Folsom Reservoir would be scheduled by Reclamation in cooperation with Westlands so that the proposed transfer would not disrupt normal CVP and SWP operations and would adhere to all required flow standards for the Lower American River as well as current regulatory requirements for Delta operations.

After release from Folsom Reservoir, the transfer water would flow down the lower American and Sacramento Rivers and be rediverted at the Jones Pumping Plant and then delivered to the Westlands service area.

For the purposes of the proposed transfer, PCWA will be solely exercising Permit 13856, which is described in Section 3.2. In absence of this transfer, the total 21,053 af of water would remain in storage in PCWA's MFP reservoirs.

3.2 Summary of PCWA's Permit

Permit 13856, which has a priority date of April 7, 1958, authorizes direct diversion and combined storage/consumptive use of MFP water as follows: (a) direct diversion of 1,225 cfs from November 1 of each year to July 1 of the succeeding year from North Fork American River; (b) 25,000 af by offstream storage, at a maximum rate of diversion of 400 cfs, from November 1 of each year to July 1 of the succeeding year from Duncan Creek to French Meadows Reservoir; (c) 95,000 af by storage from November 1 of each year to July 1 of the succeeding year from the Middle Fork American River at French Meadows Reservoir; and (d) 129,000 af by storage from November 1 of each year to July 1 of the succeeding year from the Rubicon River at Hell Hole Reservoir. The authorized purposes of use include irrigation, municipal, industrial, recreational, and incidental domestic use. The authorized place of use is shown on PCWA's map set dated July 31, 1996, and as amended by an order dated May 24, 2000. Permit 13856 expired on December 1, 2007, and on January 7, 2008, PCWA filed a petition for extension of time in 2008, which is currently pending before the State Water Board.

4.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

On June 15, 2026, 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, 2026. Timely comments on the proposed

transfer were received from the California Department of Fish and Wildlife (CDFW), Reclamation, AquAlliance, and DWR. Petitioner provided responses to timely comments by letters to the Division on July 24, 2026. The letters are available in the record for Permit 13856.

4.1 Comments of California Department of Fish and Wildlife

By letter dated July 7, 2026, CDFW commented on the proposed transfer of PCWA. CDFW stated concerns over the potential cumulative adverse impacts on the sensitive anadromous and/or resident fisheries within the Lower American River from water transfer changes to the quantity, timing, and duration of flow. CDFW indicated that releases out of the Folsom Reservoir can have both positive and negative effects on habitat quality and quantity in the river. CDFW also stated increasing reservoir releases in spring may encourage emigration of juvenile salmonids and improve survival whereas a transfer completed in summer or fall may cause rearing steelhead to redistribute to a less desirable habitat. CDFW recommended working closely with Reclamation and regulatory agencies on optimizing releases to maximize cold-water pool gains and minimize cold-water pool loss associated with a water transfer.

CDFW indicated the transfer could impact foothill yellow-legged frog (FYLF). The petition indicates the volume, timing, and temperature of stream flow releases into the Middle Fork American River and North Fork American River have the potential to significantly impact FYLF during vulnerable life stages. The comment continued, stating tadpole rearing sites require protection from unpredictable scouring flows and appropriate ramp-down rates to prevent stranding and desiccation, and that lower water velocity and shallower water depth habitats are more suitable for tadpole rearing sites.

CDFW requested that the release of transfer water also comply with Conditions 3(E) and 4(A) of the State Water Board's 2019 Water Quality Certification (WQC) for the MFAR Project to minimize impacts on aquatic and terrestrial species, including the FYLF. If the transfer schedule does not follow WQC Condition 3(E), CDFW further requested that transfer release ramping rates should be developed in coordination with CDFW, and that PCWA should conduct temperature and FYLF monitoring before, during, and after the transfer.

PCWA Response:

PCWA agrees that downstream water and temperature are important considerations and anticipates that transfer water is to be released at a steady flow rate from Folsom Dam between August 1 and September 30 at a relatively low rate compared to Reclamation's projected base flow releases during August and September. PCWA indicates the transfer is expected to provide additional cold-water resources and operational flexibility for temperature management in the Lower American River.

Regarding CDFW's concerns about the effects of the transfer on FYLF, PCWA states it has completed four years of systematic FYLF investigations consisting of the 2007 relicensing studies and Federal Energy Regulatory Commission (FERC) License Monitoring completed in 2021, 2022, and 2023, providing comprehensive site-specific dataset available for the MFP. PCWA claims its monitoring results consistently demonstrate that breeding populations occur in bypass reaches upstream of Ralston Afterbay and within tributaries, while egg masses have not been observed in the mainstem below Ralston Afterbay. Occasional observations near tributary mouths represent movement rather than establishment of breeding habitat.

PCWA adds that the transfer occurs in the licensed operational envelope, including minimum instream flow rates, recreational releases and ramping rates. PCWA's 2023 monitoring concluded that FYLF populations remained generally stable, no upstream distribution shift was detected, breeding timing reflected hydraulic conditions rather than MFP operations, and no evidence was found that licensed MFP operations adversely affected FYLF populations. PCWA indicates the historical relicensing studies and four years of monitoring demonstrate that FYLF populations, breeding distribution and habitat use remain consistent with existing licensed MFP operations.

Regarding CDFW's request that the release of transfer water also comply with Conditions 3(E) and 4(A) of the State Water Board's WQC for the MFAR Project, PCWA claims that the water quality protective measures requested by CDFW are already incorporated into the current FERC license and are substantively equivalent to the requested conditions. PCWA states its MFP operations to facilitate the transfer will be consistent with PCWA's existing FERC license.

State Water Board Response:

To address CDFW's concern of the transfer's impact on cold-water pool, this Order is conditioned to require that PCWA coordinate with Reclamation regarding the transfer and ongoing real-time operations of the CVP, and that PCWA notify the Deputy Director for Water Rights of any concerns and data identified by Reclamation that the transfer will result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir.

-In addition, the transfer is conditioned to require compliance with all existing regulatory requirements, which include conditions in PCWA's FERC license for Project 2079-069 and PCWA's *Supplemental Biological Assessment on the Potential Effects of the Placer County Water Agency's Middle Fork American River Project on Sierra Nevada Yellow-legged Frog*. CDFW's request that PCWA comply with Conditions 3(E) and 4(A) of the

State Water Board's 2019 WQC for the MFAR Project² is already being met, as those conditions are functionally identical to conditions in the FERC license for Project 2079069.

4.2 Comments of AquAlliance

By letter dated July 15, 2026, AquAlliance provided comments on the proposed PCWA transfer. AquAlliance states that the proposed transfer does not demonstrate surplus water is available to transfer and is inconsistent with the Water Code 1725, which requires that the transfer would only involve water that would have been consumptively used or stored. The comment states that PCWA plans to lower ordinary carry-over storage and rely on refill terms and restrictions to avoid injury to downstream users from the refilling of the vacated space created from the transfers. AquAlliance also indicates that the petition does not specify the refill terms needed to prevent injury to other users, making it impossible to evaluate potential legal or environmental impacts.

AquAlliance states that the proposed transfer is not truly temporary, but part of a two-year plan, as evidenced by PCWA's inclusion in a CEQA Addendum to the 2019 Final Long-Term Water Transfer Project EIR for 2026-2027 North to South Water Transfers. They argue that CEQA requires environmental review of the whole project, not just a segmented portion, and that the petition improperly seeks exemption by treating the transfer as a one-year event.

AquAlliance requests that the transfer should be considered a long-term project and subject to full CEQA analysis, not exempted under Water Code Section 1729.

PCWA Response:

PCWA explains that they own and operate the MFP and hold appropriative water rights for the MFP pursuant to Permits 13856 and 13858 allowing for the combined diversion and storage of up to 315,000 acre-feet per annum of MFP water in French Meadows and Hell Hole Reservoirs.

PCWA further states that under Water Code 1725 and per the PCWA Act Section 81-5: "The agency shall have the power (a) To sell, lease or otherwise dispose of water or any rights to the use of the works of the agency; provided, however, that no such sale, lease or disposal shall be made for use outside the agency unless the board determines that the water or works involved will not be needed for use within the agency."

-PCWA states that annual runoff into its MFP reservoirs exceeds demand, even in the driest years. Without the transfer, the carryover storage in the MFP reservoirs at the end

² The State Water Board's 2019 WQC for the MFAR Project was deemed to have been waived by FERC in 2020.

of 2026 is projected to be 160,000 acre-feet. The 2026 MFP combined end-of-year carryover target will be 138,947 acre-feet, reflecting the transfer volume of 21,053 acre-feet deducted from the baseline carryover target of 160,000 acre-feet. The remaining volume of water following the transfer available in the MFP reservoirs is nearly double its annual demand throughout PCWA's Place of Use – enough supply for roughly two additional years.

In addition, PCWA states that AquAlliance incorrectly equates a reduction in PCWA's planning carry over target with a statutory determination that transferred water is not surplus. PCWA commented that the California Water Code does not require an agency maintaining a historical planning storage target to demonstrate that stored water is available for temporary transfer. On June 18, 2026, PCWA Board of Directors adopted Resolution No. 26-15 declaring a surplus of MFP water for 2026 and directed staff to proceed with the transfer of 21,053 acre-feet to Westlands.

Lastly, PCWA responded to the AquAlliance comment about the temporary nature of the transfer and CEQA exempt determination. PCWA states that its transfer is a one-year, temporary action, not a segmented part of a longer-term project, and it has filed a Notice of Exemption consistent with CEQA under Section 15282(u) as part of PCWA's Resolution No. 26-15.

State Water Board Response:

On June 18, 2026, PCWA adopted Resolution 26-15 authorizing the temporary sale of its MFP water to Westlands. The Resolution states that PCWA's reservoirs filled early in the season due to warm temperatures and low snowpack. The Resolution also states that PCWA receives more runoff in its reservoirs than there is demand, and the 2026 MFP supply is sufficient to meet all consumptive and regulatory needs of the Agency and has discretionary surplus.

As discussed in Section 7.1 below, the State Water Board conducted an independent evaluation of its records and finds that, absent the transfer, the identified 21,053 acre-feet would remain lawfully stored and available for PCWA's future beneficial use under Permit 13856 reported by PCWA. .

Additionally, this Order includes a provision requiring PCWA to obtain a reservoir refill agreement with DWR and Reclamation prior to initiating the transfer.

Water Code section 1725 provides that 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.

In PCWA's comment response, PCWA indicated that the Petition is consistent with §81-5 of the PCWA Act. Pursuant to §81-5 of the PCWA Act, on June 18, 2026, the PCWA Board of Directors adopted Resolution No. 26-15 declaring a surplus of MFP water for 2026. PCWA further indicated that absent the proposed transfer, the water would remain in storage for future use by PCWA and would not be available to other downstream water users.

PCWA's last transfer was in 2022. The presence of a previous transfer does not transmute the request for subsequent changes into "long-term" changes, which would otherwise be subject to environmental and legal requirements under Water Code section 1735 et seq. Approval of a temporary change lasts at most one year and must be petitioned for, defended, and approved according to the criteria in Water Code section 1725 et seq., each and every year the Petitioner wishes to operate in accordance with the change.

PCWA's transfer of less than one year meets the statutory definition of a "temporary" transfer, and Water Code section 1729 therefore exempts approval of the Petition from CEQA. Given the water transfer is for a one-year duration or less and the variance of PCWA's proposed place of use from its past transfer and current proposed transfer, it does not meet the criteria for a long-term transfer and is not subject to the environmental and legal analyses pursuant to Water Code section 1735 et seq. PCWA filed an NOE with the State Clearing House (SCH) on June 22, 2026, (SCH No. 2026060938) in compliance with CEQA.

4.3 Comments of Bureau of Reclamation

By letter received July 14, 2026, Reclamation commented on PCWA's proposed water transfer. Reclamation requested that the Order approving the proposed transfer includes the following conditions to protect Reclamation's water rights and operations for the American River and CVP:

PCWA will enter a Warren Act contract with Reclamation for use of the Jones Pumping Plant, San Luis Reservoir, or any other Reclamation facility involved in the transfer.

A term that requires the transfer be contingent upon, and consistent with, a refill agreement being signed and adopted between Reclamation and PCWA.

PCWA shall coordinate with Reclamation on the Folsom 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.

PCWA's transfer shall be carried out in compliance with all existing regulatory constraints in the Delta and shall cause no harm to other legal users of water or impact on water quality.

PCWA Response:

PCWA responded to the numbered items above as follows:

Warren Act Contract: PCWA understands the need to enter into a contract with Reclamation for use of Reclamation facilities to store or convey the transfer water. Westlands intends to execute a Warren Act Contract with Reclamation, which is currently under development.

Refill Agreement: PCWA generally opposes to making the transfer contingent on refill agreements, arguing that the State Water Board does not impose such requirements on reservoir release transfers initiated by Reclamation or DWR. PCWA states that Reclamation regularly petitions the State Water Board to add DWR diversion facilities, conveyance facilities, and places of use to Reclamation's water permits for the CVP as part of an effort to more effectively manage available water supplies. As a result, Reclamation and DWR are able to release more water for export, creating "holes" in Project reservoirs that are refilled later by the Projects without regard to injury to other legal users of water such as PCWA.

Regarding Reclamation's request for a refill agreement of PCWA's proposed transfer, PCWA indicates it is consistent with past transfer orders and results in overburdensome refill requirements. PCWA states they have no option but to agree to restrictive and onerous refill requirements imposed by Reclamation and DWR that have the very real effect of allowing project reservoirs to refill while denying PCWA's ability to do the same.

PCWA requests that, if refill criteria are imposed, they should not be more restrictive than those applied to Reclamation or DWR, and that PCWA should be allowed to refill its reservoirs before Reclamation or DWR refill theirs. PCWA also requests that refill accounting not be overly complicated or burdensome, and that restrictions be lifted when the Delta is in Excess Conditions and there is surplus water in the system. Lastly, PCWA requests to eliminate the need for a separate refill agreement with Reclamation and DWR if the State Water Board imposes fair refill conditions.

Folsom Reservoir Operations: PCWA has provided substantial evidence to support that the proposed transfer will not result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir resulting from incoming transfer water. PCWA agrees to closely coordinate the transfer releases with Reclamation, and requests that the SWRCB require that Reclamation provide evidence of a potential impact rather than requiring their concurrence prior to implementation of the transfer releases.

State Water Board Response:

To avoid injury to the water rights and operations of the CVP, this Order includes a requirement for PCWA to obtain a reservoir refill agreement with Reclamation prior to

initiating the transfer. Additionally, the Order includes a condition requiring PCWA to coordinate with Reclamation during the transfer period and to transmit to the Deputy Director for Water Rights any concerns and data raised by Reclamation regarding negative impacts to the cold-water pool at Folsom. Further, this Order includes a condition that requires PCWA to ensure Westlands obtain any required Warren Act contract with Reclamation prior to transfer of water into Folsom Reservoir. This Order also includes conditions requiring that the transfer take place only during balanced conditions in the Delta.

4.4 Comments of California Department of Water Resources

By letter dated July 15, 2026, DWR provided comments on the proposed PCWA transfer, summarized below.

DWR states that refill criteria are required for all reservoir release water transfers to ensure the transfer does not injure downstream legal users of water. To protect DWR's water rights and the SWP operations, DWR requests that the order approving the proposed transfer include the following conditions:

PCWA must submit to DWR all outstanding refill accounting data from the 2021 and 2022 transfers, using procedures defined in the 2021 refill agreement.

DWR, Reclamation, and PCWA, shall execute a mutually agreeable refill agreement for the 2026 transfer before the transfer can start. The agreement shall include sufficient conditions, criteria, and procedures to properly account for the refill amount and impacts to SWP and CVP operations from refilling space vacated by the 2026 transfer, as well as procedures to mitigate such impacts.

PCWA shall provide DWR with copies of any reports filed with the State Water Board to any transfer order, and monthly refill accounting reports after the transfer is complete and until the refill is completed.

PCWA shall submit a complete transfer proposal using DWR's Water Transfer Information Management System (WTIMS).

PCWA Response:

PCWA responded to the comments above as follows:

PCWA responded that while DWR states they have not received a refill accounting sheet for the 2021 transfer, DWR acknowledges that "if that data is similar to publicly available data, [the prior] refill agreements would be complete as of 2023 without any outstanding refilling account balance or refill impact toward a 2026 refill agreement."

Regarding DWR's comment about the refill agreement, PCWA has provided a response similar to its response to Reclamation's comment on refill agreement. PCWA has also expressed similar concerns and made similar requests regarding the refill criteria and accounting. See Section 4.3 for PCWA's response to Reclamation's comment about the refill agreement requirement.

PCWA does not directly respond to DWR's comments #3 and #4.

State Water Board Response:

This Order includes a provision requiring PCWA to obtain a reservoir refill agreement with DWR and Reclamation prior to initiating the transfer. The order also includes provisions requiring PCWA to submit copies of reports submitted to the State Water Board, including monthly refill accounting. An additional provision included requires PCWA to enter the transfer information in WTIMS.

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 California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.) PCWA, as lead agency, prepared and submitted a Notice of Exemption (NOE) to the SCH for the temporary transfer on June 22, 2026, under State Clearing House Number 2026060938. The NOE is for a statutory exemption under CCR, Title 14, Section 15282 (u), temporary changes in the point of diversion, place of use, of purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code.

6.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

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 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 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, 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.”

In absence of the proposed transfer, PCWA indicated the transfer water would have remained in storage in Hell Hole Reservoir and French Meadows Reservoir. PCWA indicated that its baseline carryover storage target, without transfer, is 160,000 af for the two reservoirs. The combined end-of-year storage target, with transfer is 138,947 af, which is above the minimum carryover level required by the FERC of 75,155 af, total combined storage in the two reservoirs.

The State Water Board conducted an independent evaluation of its records. The combined annual use under Permit 13856 was 70,499 af, 62,010 af, 60,790 af, 60,790 af, and 60,790 af during 2021, 2022, 2023, 2024 and 2025, respectively. The maximum authorized storage is 249,000 af under Permit 13856. According to the Petitioner, in 2026 the targeted combined end-of-year storage in the absence of the transfer would be 160,000 af. The end-of-year storage target with the transfer is 138,947 af.

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 consumptively used or 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, 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 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, § 1728, subd. (b)(1).)

Thus, with respect to the “no injury” inquiry under Water Code section 1728, the State Water Board must evaluate whether the change will injure any legal user of the water involved in the change. The controlling consideration in the State Water Board’s inquiry is the effect of the change on the rights of others. (State Water Resources Control Bd. Cases (2006) 136 Cal.App.4th 674, 743, 805.) A person who claims injury from a proposed change “must show the change will interfere with his or her *right* to use the water, whatever the source of that right may be.” (Id. at p. 805, italics in original.) It is not enough for a water user to show that it will receive less water as a result of the change. Instead, a water user claiming injury must demonstrate that it has a right to the greater amount of water claimed and that the proposed change will interfere with that right. (*Ibid.*)

In general, the transfer of water that would have been consumptively used or stored will not result in injury to other legal users of water. The water proposed for transfer pursuant to this temporary change consists of water previously stored in Hell Hole Reservoir and French Meadows Reservoir pursuant to Permit 13856. In the absence of the proposed transfer, the water would remain in storage for future use by PCWA and would not be available to other water users. Further, the release of the water from storage at Hell Hole Reservoir and French Meadows Reservoir pursuant to the temporary transfer will not reduce the available supply to any other legal user of water downstream. Additionally, this Order is conditioned to only allow transfer of water collected to storage prior to issuance of the Order.

The refill criteria provide for an accounting of the refill of Hell Hole Reservoir and French Meadows Reservoir resulting from the proposed transfer. Pursuant to the criteria, any refill occurring during balanced conditions in the Delta is subject to repayment to Reclamation and DWR, according to a schedule agreed to by PCWA, DWR, and Reclamation.

This Order is conditioned to require PCWA enter into a reservoir refill agreement with Reclamation and DWR ensuring that future refill of any storage space in Hell Hole Reservoir and French Meadows Reservoir created by the transfer will not reduce the amount of water that Reclamation, DWR, or other water users could otherwise divert under their water rights. Therefore, no injury to other legal users of the water would occur due to the transfer.

In light of the above, and in accordance with Water Code section 1728, subdivision (b)(1), the State Water Board finds that the proposed temporary 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 change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows, or otherwise unreasonably affect a legal user of 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 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). 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. CDFW provided comments regarding water quality and FYLF, which are discussed in Section 4.1 of this Order; the conditions of the Order are consistent with avoiding the potential impacts raised by CDFW.

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 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 be subject to all applicable federal and State Endangered Species Act (ESA) requirements, including applicable Biological Opinions, Incidental Take Permits, court orders, and any other conditions imposed by other regulatory agencies applicable to diversions. The transfer will also be subject to the conditions of the FERC license for Project No. 2079-069, which includes the PCWA facilities relied upon for the transfer. In addition, this Order is conditioned to require that PCWA coordinate with Reclamation

regarding the transfer and ongoing real-time operations of the CVP, and that PCWA notify the Deputy Director for Water Rights of any concerns and data identified by Reclamation that the transfer will result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir.

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 memorandum 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 1725 et seq.

The State Water Board concludes that, based on the available information:

The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

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.

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 for the transfer of up to 21,053 acre-feet (af) of water under Placer County Water Agency's (PCWA or Petitioner) Permit 13856 is approved.

All existing conditions of Permit 13856 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 to one year from the date of this Order. Reservoir releases will be limited to the date of this Order through September 30, 2026.
2. The following points of diversion are temporarily added to Permit 13856:

The Harvey O. Banks Pumping Plant via Clifton Court Forebay, located within CCS 83, Zone 3, North 2,126,440 feet and East 6,256,425 feet, being within the Northwest quarter of the Southeast quarter of projected Section 20, Township 1 South, Range 4 East, Mount Diablo Base & Meridian (MDB&M), and

CW "Bill" Jones Pumping Plant, located within CCS 83, Zone 3, North 2,121,505 feet and East 6,255,368 feet, being within the Northeast quarter of the Southwest quarter, projected Section 29, Township 1 South, Range 4 East, MDB&M.

3. The following point of diversion and place of temporary storage is temporarily added to Permit 13856:

San Luis Reservoir, located within CCS 83, Zone 3, North 1,845,103 feet and East 6,393,569 feet, being within the Southwest quarter of the Southeast quarter of projected Section 15, Township 10 South, Range 8 East, MDB&M.

4. The place of use under Permit 13856 is temporarily expanded to include the service area of Westlands Water District as shown in Attachment C submitted with the Petition.
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 DWR and Reclamation set forth in Tables 1, 2, and 3 on pages 181-187 of 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. Carriage losses shall be deducted from any water transferred through the Delta and delivered under this Order.
8. During the period of this transfer, Petitioner shall comply with applicable terms and conditions imposed by other regulatory agencies, including applicable conditions in the Federal Energy Regulatory Commission license issued for Project No. 2079-069. This Order shall not be construed as authorizing the violation of any agreement entered by the Petitioner.
9. Only water collected to storage prior to issuance of this Order may be transferred pursuant to this Order.
10. Transferrable water may be credited only during balanced conditions in the Sacramento-San Joaquin River Delta.
11. Petitioner shall ensure that Westlands has executed a Warren Act contract with Reclamation prior to transferring water into Folsom Reservoir under this Order, unless Reclamation states a Warren Act contract is not required. Petitioner shall provide confirmation from Reclamation and Westlands 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.
12. Water may not be transferred through the Banks Pumping Plant, Jones Pumping Plant, or San Luis Reservoir until a Refill Agreement has been agreed to and executed between Reclamation, DWR, and PCWA to address potential refill concerns in Hell Hole Reservoir and French Meadows Reservoir. Documentation of the Refill Agreement shall be submitted to the Division within 15 days of the date of execution of the agreement. The documentation shall include as an attachment all information identified by Section 4 and Appendix B of the 2019 Draft Technical Information for Preparing Water Transfer Proposals³ (Water Transfer White Paper) for the development of the agreement. The terms of the Refill Agreement shall be binding until such time as all the storage vacated for the transfer has been refilled during periods consistent with the terms of the Refill Agreement. The refill period may span multiple years if the hydrologic conditions in the year following the transfer are not consistent with the terms of the Refill Agreement. PCWA may be required to relinquish for downstream release any reservoir storage collected in violation of the Refill Agreement (up to the transfer quantity), in accordance with a schedule acceptable to Reclamation.

³ DRAFT Technical Information for Preparing Water Transfer Proposals https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Management/Water-Transfers/Files/Draft_2019WTWhitePaper-012324.pdf

13. Petitioner must coordinate with Reclamation on the Folsom operations schedule as part of ongoing real-time operations for the CVP. Petitioner shall transmit to the Deputy Director for Water Rights any concerns and data identified by Reclamation that the transfer will result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir resulting from incoming transfer water. The Deputy Director may modify the conditions of this transfer to address the risk of negative impacts to the cold-water pool at Folsom Reservoir.
14. Within 90 days of the completion of the transfer, PCWA shall provide the Deputy Director for Water Rights, one or more tables describing the transfer authorized by this Order. The table(s) shall include the following information:
 - a. The general location of where water was delivered, and the acreage and/or population served by the water delivered to Westlands pursuant to this Order;
 - b. The average daily release rates and corresponding volumes of water released from Hell Hole Reservoir and French Meadows Reservoir as a result of this transfer (reported on a daily basis);
 - c. For each day of the transfer, the average daily release rates and corresponding volume of water released from Folsom Reservoir as a result of this transfer (reported on a daily basis);
 - d. For each day of the transfer, the daily average rate of water diverted, and daily volume of water diverted at the either the Jones or Banks Pumping Plant pursuant to this Order;
 - e. The daily amounts of water delivered to Westlands pursuant to this Order;
 - f. The amount of the Refill Reservation as defined in the Refill Agreement (reported on a daily basis); and
 - g. Recognizing that reservoir refill will occur after the transfer ends, monthly reporting of reservoir refill is not required during the transfer period. However, PCWA shall provide reservoir refill reporting in its Report of Permittee 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 DWR or Reclamation and has not been provided to PCWA in time for inclusion in a monthly or annual report, PCWA shall provide the information to the Deputy Director for Water Rights within 30 days of receipt.

15. PCWA shall utilize DWR's 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. Additionally, PCWA shall transmit copies to DWR of all required reports submitted to the Deputy Director pursuant to this Order.
16. 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.
17. 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.
18. 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 and Game Code sections 2050 to 2097) or the federal ESA (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this temporary transfer, the Petitioner shall obtain authorization for an incidental take prior to commencing transfer of water. Petitioner shall be responsible for meeting all requirements of the applicable ESA for the temporary transfer authorized under this Order.
19. 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:

*Juliet Christian-Smith, Deputy Director
Division of Water Rights*

Dated: August 10, 2026