

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF LICENSE 11118 (APPLICATION 14804)
OF SOUTH SUTTER WATER DISTRICT**

**PETITION FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF UP TO
2,299 ACRE-FEET OF WATER TO WOODLAND-DAVIS CLEAN WATER AGENCY**

SOURCE: Bear River

COUNTIES: Placer and Yuba

ORDER APPROVING TEMPORARY CHANGES

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 OVERVIEW

On July 8, 2022, the South Sutter Water District (SSWD 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 11118 (Application 14804), pursuant to Water Code section 1725 et seq. Under the proposed transfer, up to 4,598 acre-feet (af) of water will be transferred to Woodland-Davis Clean Water Agency (WDCWA) from the date of this Order through March 2023. By letter, dated September 7, 2022, SSWD informed the Division that the amount of water requested to be transferred to WDCWA has been reduced from 4,598 af to 2,299 af. With the amended petition, SSWD proposes to transfer up to 2,299 af of previously stored water under License 11118 (Application 14804) from the Reservoir, which flows downstream to the Diversion Dam on the Bear River, to WDCWA.

2.0 TRANSFER TYPE

The proposed surface water transfer will be made available to WDCWA by groundwater substitution in lieu of diverting water under License 11118, where SSWD's agricultural customers will pump groundwater in lieu of receiving water released from

Camp Far West Reservoir (Reservoir) and the Camp Far West Diversion Dam (Diversion Dam).

SSWD would make previously stored surface water available for temporary transfer via groundwater substitution. Groundwater substitution involves the use of groundwater pumped from within SSWD's boundaries to irrigate crops within SSWD's boundaries in exchange for a corresponding amount of surface water (minus a streamflow depletion loss) that will remain instream for rediversion at the proposed additional points of rediversion. As described in the petition, absent the proposed temporary transfer, SSWD would deliver the entire quantity of stored surface water proposed for transfer for irrigation use within SSWD's boundaries.

2.1 Groundwater Substitution Transfers

Under a groundwater substitution transfer, surface water supply is made available for transfer as a result of SSWD reducing the amount of water it would have diverted under its surface water right and replacing those diversions with groundwater pumping. Depending on various factors including the distance of the groundwater well(s) from the surface stream, depth of the well(s), and local hydrogeologic conditions, the increase in groundwater pumped by SSWD's customers to enable the transfer results in a reduction in the amount of water that would otherwise have accrued to the stream due to the interconnection of surface water and groundwater (streamflow depletion). Consequently, groundwater pumping for transfer operations will provide water at the expense of current and future streamflow. Flow reduction in a river, stream, canal, or drain due to groundwater substitution transfers has the potential to injure other legal users of water if it occurs when the Delta is in balanced conditions¹ or there is limited streamflow in the channel from which the water is being transferred.

Previous SSWD proposals for transfers of water that occurred through Central Valley Project (CVP) and/or State Water Project (SWP) facilities that involve groundwater substitution were developed to be consistent with the Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), dated December 2019, prepared by the Department of Water Resources (DWR) and Reclamation. Depending on well location and associated impacts to surface water supply, DWR and Reclamation determined which wells were appropriate for groundwater substitution transfer use, or if an alternative accounting method may be applied. The DWR and Reclamation criteria used to evaluate groundwater substitution transfers is intended to minimize impacts to streamflow during balanced conditions in

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 Delta and potential impacts to SWP and CVP operations.

All groundwater substitution transfers are subject to applicable county regulations, including any regulations prohibiting transfer. The boundaries of SSWD are within the North American Subbasin. SSWD is participating in a Groundwater Sustainability Agency (GSA) which has prepared a Groundwater Sustainability Plan (GSP). Groundwater substitution transfers are also required to comply with current groundwater management law under the water code provisions pursuant to the 2014 Sustainable Groundwater Management Act (SGMA).

Long-Term Impacts to Stream Flow from Groundwater Substitution Transfers

Depletion of surface stream flows due to groundwater pumping, including groundwater substitution transfers, has been a long-standing issue of concern in California. Part of the concern involves whether the SDFs being used pursuant to groundwater substitution transfers are sufficient to protect against long-term negative impacts to surface water flows. The depleting effect of increased groundwater pumping on surface flows persists for years following the increased groundwater pumping.

Because real-time streamflow depletion due to groundwater pumping cannot be directly measured, DWR and Reclamation have estimated impacts on streamflow due to groundwater pumping by using analytical and numerical groundwater models. DWR and Reclamation utilize information from modeling conducted for Reclamation's 2019 Long-Term Water Transfers EIS/EIR (Transfer EIS/EIR) to establish a *minimum* 13 percent SDF mitigation measure for single year transfers requiring the use of SWP or CVP facilities. The Transfer EIS/EIR selected a 13 percent minimum SDF based on a modeling analysis of groundwater substitution transfers occurring across ten different individual years within the modeling period and assessed the total volume of depletions over a duration of ten years from the start of each transfer year. The analysis showed the SDF ranged from 14 percent to over 40 percent, with an uncertainty of +/- one percent, hence 13 percent was selected as the minimum². The Transfer EIS/EIR mitigation measures also state that stream depletions vary based on hydrologic conditions and are in part dependent on hydrologic conditions following the transfer.

Review of modeling results from the Transfer EIS/EIR shows that the surface water depletions due to groundwater pumping and surface water and groundwater interaction over the modeled period of record compared to total groundwater substitution transfers

² Technical consulting staff involved in the preparation of the Transfer EIS/EIR presented a summary of the basis for the 13 percent SDF to State Water Board staff on January 26, 2022. The presentation showed that the modeled single-year depletion percentages that were used as the basis for the 13 percent mitigation measure ranged from 14 percent to over 40 percent, with increases to over 40 percent occurring when the transfer occurred at the beginning of a sequence of dry years.

during those same years result in an average SDF of approximately 25 percent.³ Further, the Transfer EIS/EIR states that during a period of multiple dry years, the impacts during a single year can be greater and can have a potentially significant effect on water supply.

Because 2022 is the third consecutive year of dry conditions as emphasized by the Governor's Executive Order N-7-22, it is necessary to implement a more conservative approach to the SDF reflective of the risk of continued dry conditions to ensure avoidance of injury to other lawful users of water and unreasonable effects on fish and wildlife during this year and future years. Given that the DWR and Reclamation imposition of SDFs for transfers require transfer-specific considerations based on the hydrologic circumstances of the transfer year, and the Transfer EIS/EIR indicates depletions increase during a sequence of dry years, it is uncertain whether the minimum 13 percent SDF applied to a transfer occurring in a third consecutive dry year will be adequately protective of surface stream flows should drought conditions persist. Consequently, the State Water Board will condition this Order to ensure potential impacts of depletions above the 13 percent SDF resulting from this transfer are addressed, should new information come to light demonstrating those impacts. While the original analysis supporting the 13 percent SDF relied upon an analysis spanning 10 years following the transfer, new information could indicate the extent of impacts caused by depletions occur for a period shorter or greater than 10 years. The Sacramento Valley Groundwater-Surface Water Simulation Model (SVSim) developed by DWR to assess streamflow depletions, has completed calibration and was released to the public on June 8, 2022. The availability of the calibrated SVSim model constitutes new information regarding streamflow depletion. However, as of the date of this Order, Division staff have not had the opportunity to review SVSim and the related model documentation in order to apply it to specific transfers. Other examples of potential new information include new management actions, such as groundwater recharge, undertaken to offset depletions and monitoring related to those management actions.

³ Based on Figure 3.1-3: *Potential Changes in Total Exports at the Delta Pumping Station as a Result of Surface Water and Groundwater Interaction* and Figure K-14: *Annual Available Water Transfer Supply (EIR/EIS)*, from Reclamation's March 2019 Long-Term Water Transfers EIS/EIR. The figures provide the annual modeled surface water depletion amounts and the annual modeled groundwater pumping amounts due to transfers. The total of the annual amounts from the two figures indicates a long-term average SDF of approximately 25 percent over the modeled period.

3.0 BACKGROUND

3.1 Summary of South Sutter Water District's License 11118

License 11118 (Application 14804), which has a priority date of May 12, 1952, authorizes the diversion to storage in Camp Far West Reservoir (Reservoir) of up to 58,370 AF of water per year from the Bear River between October 1 of each year to June 30 of the succeeding year. License 11118 also authorizes the direct diversion of up to 330 cubic feet per second (cfs) and rediversion from storage at the Camp Far West Diversion Dam (Diversion Dam) between May 1 and September 1 of each year. The Diversion Dam is located about one mile downstream of the Reservoir.

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

In order to protect fish and wildlife resources in the Bear River downstream of the Diversion Dam, SSWD is required to bypass 25 cfs between April 1 and June 30 of each year and 10 cfs between July 1 of each year to March 31 of the succeeding year.

SSWD, along with other parties in the Bear River watershed, have entered into the Bear River Agreement with DWR to meet the Bear River watershed's responsibilities for Bay-Delta flow objectives. This Bear River Agreement requires SSWD to make up to 4,400 AF of water available to DWR during dry and critically dry water years. SSWD's petition states that the water intended for transfer is in addition to the water made available to DWR pursuant to the Bear River Agreement.

3.2 Description of the Proposed Temporary Changes

The proposed transfer would include the following temporary changes to SSWD's water right License 11118:

- 1.) Add the WDCWA's Pumping Plant as an additional point of rediversion;
- 2.) Add the WDCWA's service area as shown on maps filed with the Division under water right Application 30358 as an additional place of use; and
- 3.) Add municipal and industrial as additional purposes of use.

3.3 Governor Newsom's 2021 and 2022 Proclamations of a Drought State of Emergency

California is experiencing severe to exceptional drought conditions across the state. Water Year 2020-2021 was a second consecutive dry year with record-breaking high temperatures. In response to California's severe drought conditions in 2021, Governor Gavin Newsom proclaimed a regional drought state of emergency on April 21, 2021 for the Russian River Watershed, and on May 10, 2021 he signed a proclamation expanding the drought state of emergency to the Klamath River, Sacramento-San Joaquin Delta, and Tulare Lake Watersheds. On July 8, 2021, Governor Gavin Newsom signed a proclamation further expanding the regional drought state of emergency to include nine counties where drought effects are increasingly severe or where state emergency response may be needed. The Governor's drought proclamations brought a total of 50 of the state's 58 counties under the drought state of emergency.

The Governor's July 8, 2021 Proclamation states:

"since my May 10, 2021 Proclamation, California's water supplies continue to be severely depleted, and high temperatures are now increasing water loss from reservoirs and streams (especially north of the Tehachapi Mountains), and thus demands by communities and agriculture have increased, supplies of cold water needed for salmon and other anadromous fish that are relied upon by tribal, commercial, and recreational fisheries have been reduced, and risk has increased of drought impacts continuing in 2022 because of continued water loss from climate change-driven warming temperatures and less water available in reservoirs and streams from two years of below average precipitation."

The July 8, 2021 Proclamation directed the State Water Board to consider,

"modifying requirements for reservoir releases or diversion limitations to conserve water upstream later in the year in order to protect cold water pools for salmon and steelhead, enhance instream conditions for fish and wildlife, improve water quality, protect carry over storage, or ensure minimum health and safety water supplies. The Water Board shall require monitoring and evaluation of any such changes to inform future actions."

On October 19, 2021, the Governor extended the drought emergency proclamation to include California's remaining eight counties.

On March 28, 2022 Governor Newsom issued Executive Order N-7-22, finding that "early rains in October and December 2021 gave way to the driest January and February in recorded history for the watersheds that provide much of California's water supply" and that "the ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish

and wildlife that rely on stream flows and cool water.” The March 28, 2022 Order requires various measures to encourage water conservation and to increase resilience of state water supplies during prolonged drought conditions.

4.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

Governor Newsom’s May 10, 2021 drought proclamation modified noticing requirements and notice duration for temporary transfers of water. Consistent with the Governor’s proclamation, the Division noticed SSWD’s petition on July 26, 2022, to the Division’s website and via the State Water Board’s electronic subscription mailing list pursuant to modified Water Code section 1726, subdivision (d).

The comment deadline was August 10, 2022. Timely comments on the transfer were received from the United States Bureau of Reclamation (Reclamation), and the California Department of Water Resources (DWR).

4.1 Comments of Reclamation

On August 3, 2022, Reclamation submitted comments on the proposed Order requesting that the transfer is implemented consistent with the Draft Technical Information. Reclamation requests that the Order granting the change be conditioned on:

1. Submission of a complete transfer proposal, utilizing the Department of Water Resources’ online database, Water Transfer Information Management System (WTIMS) at <https://info.water.ca.gov/wtims>, which has been prepared to meet the requirements of the Draft Technical Information to match the quality and sufficiency of information other agencies have developed to demonstrate no adverse impacts caused by groundwater substitution transfers, as SSWD had done in 2018 and 2020 to document groundwater substitution transfers in those years; and
2. Approval of the transfer proposal by DWR and Reclamation in accordance with the Draft Technical Information prior to any water being made available for transfer.

Petitioner Response:

SSWD responded by letter, dated September 7, 2022, and indicated, “While it intends to cooperate and share relevant information with the Project Agencies through submittal of information in WTIMS, the District disagrees with the request that the Project Agencies be granted separate authority to approve or deny this proposed transfer, since it will not utilize or otherwise involve SWP or CVP facilities, nor does the transfer involve a SWP contract or CVP contract during the period of the proposed transfer.”

SSWD went on to state:

“Although the proposed transfer does not involve the use of the Project Agencies' facilities, as indicated further below, the District is nevertheless willing to submit information on the proposed transfer to DWR' s WTIMS database, as it has done with its previous groundwater substitution transfers involving reservoir release during 2018 and 2020. The District has conveyed to DWR and Reclamation the District's desire to cooperatively coordinate regarding water transfers, including reasonable improvements or enhancements to the water transfer process generally, as well as details associated with the District's transfers.”

SSWD summarized their response by including a statement that requests the State Water Board not condition the approval of the transfer petition on additional approvals from DWR or Reclamation.

State Water Board Response:

This Order is not conditioned to require approval of the transfer by DWR and Reclamation but is conditioned to be consistent with the objectives and requirements of the Draft Technical Information. The State Water Board relies upon and appreciates the technical reviews performed by DWR and Reclamation in their review of transfers and application of the Draft Technical Information. If SSWD elects to pursue additional temporary transfers in the future that do not require approval by DWR or Reclamation, DWR and Reclamation may submit information to the State Water Board regarding how the objectives of the Draft Technical Information have not been satisfied, how deviations from the Draft Technical Information impact other legal users of water or the environment, or how the proposed temporary transfer would otherwise impact other legal users of water or the environment. The Order is conditioned to require SSWD to enter the applicable transfer information into WTIMS, given the important role of WTIMS in compiling information related to temporary transfers.

4.2 Comments of DWR

On August 10, 2022, DWR commented on the proposed transfer. DWR requests that the Order granting the change be conditioned on the following:

1. The proposed transfer is in compliance with sections 3.5 and 3.6 of the Draft Technical Information. The Department would like to review South Sutter's Monitoring Program Plan and Mitigation Program Plan (collectively, Plans) and the implementation of the Plans and be able to provide comments to the Board regarding their sufficiency, and
2. South Sutter submits a complete transfer proposal using the Department's Water Transfers Information Management System online database, at

<https://info.water.ca.gov/wtims/>. The proposal is to include additional transfer and monitoring well information, be consistent with the Draft Technical Information, and demonstrate a lack of adverse impacts caused by groundwater substitution transfers.

Petitioner Response:

SSWD letter, dated September 7, 2022, responded to both DWR and Reclamation as stated in Section 4.1 of this Order.

State Water Board Response:

See State Water Board response in Section 4.1 of this Order. Additionally, the State Water Board will provide copies of the Monitoring Program and Mitigation Program Plans to DWR and will consider any comments provided by DWR. The State Water Board reserves jurisdiction to modify the terms and conditions of approval in this Order for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions or new information may warrant.

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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.

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:

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

(Wat. Code, § 1727, 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, § 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 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 1727, subdivision (b)(2) (see Section 7.3 of this Order).

7.0 REQUIRED FINDINGS OF FACT

7.1 Transfers Only Involve Water That Would Have Been Consumptively Used or Stored

Before approving a temporary change due to a transfer or exchange of water, the State Water Board must find that the change will only involve the amount of water that would have been consumptively used, stored, or conserved 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”.

To provide water for the transfer, SSWD proposes to forgo distribution of up to 2,299 af of water stored at the Reservoir which SSWD anticipates would have been consumptively used by SSWD’s customers during September and October 2022. Customers within SSWD’s service area utilize stored surface water provided by SSWD to meet irrigation requirements. When additional water is necessary above the amount of water received from SSWD, SSWD’s customers meet those needs with groundwater pumping.

Absent the proposed change, SSWD would release the water proposed for transfer from the Reservoir for redirection at the Diversion Dam into the Main Canal for consumptive use within SSWD’s place of use during the months of September and October. The State Water Board conducted an independent evaluation of its records. The total use of water under License 11118 during September was 11,323 af, 10,207 af, 9,002 af, 7,914 af, and 7,139 af during 2016, 2017, 2018, 2019, and 2020, respectively.

The total use of water under License 11118 during October was 3,835 af, 4,229 af, 493 af, 467 af, and 0 af during 2016, 2017, 2018, 2019, and 2020, respectively. These data indicate that the SSWD has put the amount proposed to be transferred to recent beneficial use.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would be consumptively used 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 Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows (Wat. Code, § 1727, subd. (b)(1)).

Thus, with respect to the “no injury” inquiry under Water Code sections 1727, 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.*)

To the extent that the additional groundwater pumped does not affect streamflow, this water represents an amount of water which would not be available for use in the downstream water supply. To the extent that new information becomes available indicating that additional depletions due to this transfer impacted surface flows when the Delta is in balanced conditions, this Order requires SSWD to consult with DWR and Reclamation to develop a plan, potentially including a water diversion reduction schedule or other measures including groundwater recharge, to address and offset the reduced stream flows that occurred as a result of the transfer. In general, the transfer of water that would otherwise be stored or consumptively used will not result in injury to other legal users of water. In the absence of the transfer, SSWD would have diverted the surface water for delivery to its service area.

In general, the transfer of water that would otherwise be stored or consumptively used will not result in injury to other legal users of water. In the absence of the transfer, SSWD would have released the surface water for delivery to its service area or retained

the water in storage.

Water Code Section 1745.10 requires that groundwater substitution transfers be (a) consistent with a groundwater management plan adopted pursuant to state law for the affected area or (b) approved by the water supplier from whose service area the water is to be transferred and that water supplier, if a groundwater management plan has not been adopted, determines that the transfer will not create, or contribute to, conditions of long-term overdraft in the affected groundwater basin. As described in Section 2.1, the boundaries of SSWD are within the North American Subbasin. SSWD is participating in a Groundwater Sustainability Agency (GSA) which has prepared a Groundwater Sustainability Plan (GSP). Groundwater substitution transfers are also required to comply with current groundwater management law under the water code provisions pursuant to SGMA. Additionally, SSWD adopted the South Sutter Water District Groundwater Management Plan (Plan) in 1995, which was subsequently updated in 2009. SSWD is also required to submit periodic reports on groundwater conditions to the State Water Board pursuant to Order WR 2000-10. The most recent report, dated January 15, 2020, indicates a lack of long-term overdraft or subsidence, based on the data provided in the report.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed temporary change will not injure any legal users of water. I also find that the transfer of surface water that is replaced with groundwater pursuant to this Order meets the requirement of Water Code section 1745.10, subdivision (a).

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

Before approving a temporary change due to 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, § 1727, subd. (b)(2).). The Petitioner provided CDFW and the Central Valley Regional Water Quality Control Board (Regional Board) with a copy of the petition in accordance with California Code of Regulations, title 23, section 794, subdivision (c). The CDFW and Regional 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.

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

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.

9.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code sections 1725 and 1745.10, 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.
4. Any increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) will be performed in compliance with Water Code section 1745.10.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed by the South Sutter Water District (SSWD) for temporary change for the transfer of up to 2,299 acre-feet (af) of water under License 11118 is approved.

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

1. The transfer of water is limited to the period commencing on the date this Order is issued and continuing through March 30, 2023.
2. The transfer amount under License 11118 is limited to a total of up to 2,299 af prior to subtracting streamflow depletion loss by groundwater substitution of water that would otherwise have been delivered to SSWD customers during the months of September and October.
3. The amount of surface water transferred pursuant to this Order shall not exceed 87 percent of the amount of reservoir release for the transfer. Accordingly, the maximum amount of water available for transfer given a 13 percent depletion rate is 2,000 af.
4. The following point of rediversion is temporarily added to License 11118. The water diverted at these facilities is limited to the quantities made available as transfer water, as specified above:

WDCWA Pumping Plant

North 2,008,200 feet and East 6,667,300 feet,
California Coordinate System of 1983, Zone 2,
being within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 34, Township 10 North, Range 3 East, Mount Diablo Base and Meridian.

5. The place of use under License 11118 is temporarily amended to include the Woodland-Davis Clean Water Agency's (WDCWA) service area as shown on maps filed with the Division of Water Rights under water right Application 30358.
6. Municipal and Industrial are temporarily added as purposes of use.
7. The stream depletion factor (SDF) is initially set at 13 percent for the purposes of this transfer. If new information becomes available, by no later than April 1, 2023, that the Deputy Director for Water Rights determines demonstrates cumulative streamflow depletions due to the transfer are higher than 13 percent and the streamflow depletions are occurring or have occurred while the Delta is in balanced conditions, SSWD shall prepare a plan and implementation schedule in consultation with the Department of Water Resources (DWR) and the United

States Bureau of Reclamation (Reclamation) to address the additional losses of State Water Project (SWP) or Central Valley Project (CVP) stored water identified by the Deputy Director for Water Rights. The Deputy Director for Water Rights shall provide the new information to the Petitioner and provide a 30-day opportunity for the Petitioner to comment on the new information before determining cumulative streamflow depletions are higher than 13 percent. The plan and implementation schedule, if required, shall be submitted to the Deputy Director for Water Rights within 90 days of a determination by the Deputy Director for Water Rights that the new information demonstrates cumulative stream flow depletions due to the transfer are higher than 13 percent.

8. During the period of the transfer, SSWD shall comply with applicable terms and conditions imposed by other regulatory agencies. This Order shall not be construed as authorizing the violation of any agreement entered into by SSWD.
9. To ensure the transfer is implemented consistent with the Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), and to assist in demonstrating no adverse impacts to groundwater resources, within 30 days of the date of this Order, SSWD must prepare and submit to the Deputy Director for Water Rights a Monitoring Program Plan and Mitigation Program Plan (collectively, the Plans). The Plans must be consistent with the objectives described in sections 3.5 and 3.6 of the Draft Technical Information. Transfer activities must cease if any deficiencies identified by the Deputy Director for Water Rights in the Plans remain unaddressed to the satisfaction of the Deputy Director for Water Rights for longer than 15 days.
10. SSWD must operate consistent with and adhere to the accounting methodology developed pursuant to Condition 5 of the June 3, 2022, Order approving temporary urgency changes requested by SSWD. If the Deputy Director finds the methodology deficient for demonstrating additional flows in the Bear River for the transfer and those deficiencies are not remediated within a timeframe established by the Deputy Director, SSWD must cease transfer activities. If the approved methodology shows that the amounts proposed for the transfer are not being made available in the Bear River downstream of SSWD, the Deputy Director may order additional releases or bypasses of flow from Camp Far West Reservoir and Camp Far West Diversion Dam during the transfer period and up to the amount of the approved transfer and consistent with an accounting methodology established by the Deputy Director.
11. Within 90 days of completion of the transfer, SSWD must provide the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report must include the following information:
 - a. General locations where the transferred water was used;

- b. The location and characteristics of the wells used to pump groundwater, if available;
- c. The daily average rate of water made available for transfer from Camp Far West Reservoir pursuant to this Order;
- d. An accounting by daily average release of the parameters identified in Condition 10 above, including rate and total volume of any storage releases and deliveries for transfer from Camp Far West Reservoir; the daily average streamflow measured at the nearest representative gaging station on the Bear River;
- e. Groundwater elevations within the vicinity of SSWD prior to the proposed transfer; and
- f. SSWD must incorporate into the report any amendments to SSWD's submitted Proposed 2022 Water Transfer Groundwater Level Monitoring Program and Mitigation Plan identified by the Deputy Director for Water Rights.

SSWD must also develop and submit to the Deputy Director for Water Rights, by July 1 of each year following 2023, a map defining the groundwater elevations within the vicinity of SSWD until such time as these elevations correspond to pre-transfer levels.

12. 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.

13. This Order does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this Order, right holder shall obtain any authorization for an incidental take prior to commencing the transfer of water. Right holder

shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.

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

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: September 23, 2022