

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

DIVISION OF WATER RIGHTS

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

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

SOURCE: South Fork American River

COUNTY: El Dorado

ORDER APPROVING TEMPORARY CHANGES

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 OVERVIEW

On July 20, 2022, El Dorado Irrigation District (EID or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a petition for temporary change (Petition) involving the transfer of water under water right License 2184 (Application 1692), pursuant to Water Code section 1725 et seq. Under the proposed transfer, up to 750 acre-feet (af) of water will be transferred to the Westlands Water District (WWD). The temporary changes approved pursuant to Water Code section 1725 under this petition may be effective until November 30, 2022.

2.0 TRANSFER TYPE

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

2.1 Reservoir Release

Under a reservoir release transfer, surface water supply is made available for transfer as a result of a petitioner releasing water held in storage that would remain in storage and/or diverted if the transfer were not to occur. The transfer proposed by EID involves water currently stored in Weber Reservoir. Following the transfer, the reservoir may have additional storage capacity that will result in diversion that would not occur in the absence of the transfer, referred to as reservoir refill. Reservoir refill has the potential to injure other legal users of water if it occurs when the San Francisco Bay/Sacramento-San Joaquin Delta (Delta) is in balanced conditions¹ or there is limited streamflow in the channel from which the water is being transferred.

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

3.0 BACKGROUND

3.1 Summary of EID's License

License 2184 (Application 1692)

The capacity of Weber Reservoir is 1,125 AF. License 2184 authorizes diversion to storage of up to 1,000 AF per year from October 15 of each year to May 15 of the succeeding year. The license requires an annual minimum storage of 200 AF on September 1, and minimum releases not less than 1 cfs to protect and enhance wildlife, and recreation in Weber Creek downstream of Weber Reservoir when reservoir storage is available. Weber Reservoir Dam is the existing point of diversion and Folsom Reservoir Pump Station is the existing point of rediversion under License 2184. The existing purpose of use and place of use under License 2184 includes:

1. Fish and Wildlife Preservation and Enhancement and Fire Protection uses at Weber Reservoir within SW¼ of Section 35, T1S, R3E, MDB&M, and Fish and Wildlife Preservation and Enhancement and Recreation uses within North Fork

¹ The Delta is in balanced conditions when the State Water Project (SWP) and Central Valley Project (CVP) agree that releases from upstream reservoirs, plus unregulated flow, approximately equal the 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.

Weber Creek, Weber Creek, and South Fork American River from Weber Reservoir Dam to Folsom Reservoir.

2. Municipal, Industrial, Irrigation, and Fire Protection uses within the boundaries of EID comprising 30,702 acres as shown on map dated April 8, 1927, filed with the State Water Board and El Dorado Hills area as shown on map dated January 26, 2006, filed with the State Water Board.

The WWD would use the transfer water predominantly for irrigation in their service area so no change in purpose of use is proposed.

3.2 Description of the proposed temporary changes

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

- 1) Central Valley Project's (CVP) Bill Jones Pumping Plant (Jones Pumping Plant) as a point of diversion, located within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 29, T1S, R4E, MDB&M;
- 2) San Luis Reservoir as a point of diversion, located within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 15, T10S, R8E, MDB&M; and
- 3) Service area of the WWD as an additional place of use.

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

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, the Governor 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.”

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

On March 28, 2022, the Governor 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 applies various measures to encourage water conservation and to increase resilience of state water supplies during prolonged drought conditions.

4.0 PUBLIC NOTICE AND COMMENTS ON THE PROPOSED TRANSFER

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 EID's petition on August 1, 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).

Timely comments on the proposed transfer were received from 1) California Department of Fish and Wildlife (CDFW); 2) DWR; and 3) Reclamation. Petitioner provided responses to timely comments by letter to the Division dated August 30, 2022. That letter is available in the record for License 2184.

4.1 Comments of CDFW

By letter dated August 9, 2022, CDFW commented on the proposed water transfer, citing concerns about the potential direct and cumulative adverse impacts from changes in the quantity, timing, temperature, and duration of water transfers on the sensitive resident fisheries within the Lower American River (LAR). CDFW is concerned about the effects of temperature fluctuations on summer rearing of juvenile steelhead and for fall-run Chinook spawning in October and November. CDFW stated that releases out of Folsom for 2022 water transfer needs can substantially influence conditions, including temperature in the LAR.

CDFW recommends close coordination with Reclamation and regulatory agencies on the release timing of transfer water into and out of Folsom to maximize cold-water pool gains and minimize cold-water pool losses associated with a water transfer in order to better maintain rearing habitat for steelhead.

Recognizing that summer releases from Folsom Reservoir can affect habitat quantity and quality and that warming associated with water residence time in Lake Natoma, CDFW also recommends working closely with Reclamation and regulatory agencies on adaptively accounting for transfer water.

Petitioner Response

Petitioner agreed to coordinate the transfer with Reclamation's operations. The proposed transfer amount of 750 af of water is an exceedingly small volume compared to the total South Fork American River inflow. Therefore, the proposed transfer is not expected to have a direct impact on the cold-water pool within Folsom Reservoir.

State Water Board Response

As indicated in the Petition and CDFW's August 9, 2022 comment letter, EID should coordinate with Reclamation on releases from Folsom Reservoir to maximize cold-water pool gains and minimize cold-water pool losses associated with the water transfer and adaptively account for transfer water. Thus, this Order conditions the Petitioner to comply with CDFW's requests as indicated in CDFW's August 9, 2022 comment letter.

4.2 Comments of DWR

By letter dated August 16, 2022, DWR commented on EID's proposed water transfer. DWR requested that the Order approving the proposed transfer include the following conditions to protect DWR's water rights.

- 1) The transfer is subject to the refill criteria specified in a refill agreement between EID, DWR, and Reclamation.
- 2) Transferable water may be credited only during balanced conditions in the Delta.

- 3) EID should provide a copy of all reports pursuant to the State Water Board's Order and all the monthly refill accounting reports after the transfer is complete to improve coordination between DWR and EIR and to ensure that DWR has the latest information related to the transfer.

In addition, DWR, in coordination with Reclamation, has an online database, Water Transfers Information Management System (WTIMS) at <https://info.water.ca.gov/wtims/>. DWR recommends EID utilize WTIMS to document this reservoir re-operation transfer as previously done in 2018 and 2020.

Petitioner Response

EID stated that this transfer will only utilize CVP facilities. As such, a refill agreement should not be required with DWR, but EID did include DWR as a signatory on the refill agreement. The Petitioner indicated that they do not object to providing the requested reports to DWR. EID declines DWR's request to enter the transfer information into the WTIMS database prior to transfer since they believe entry in this database should only apply to transfers that involve review and approval from DWR for use of its facilities.

State Water Board Response

This Order includes a condition requiring EID to obtain a reservoir refill agreement with DWR and Reclamation prior to initiating the transfer. Further, the Delta was declared to be in balanced conditions by DWR on September 1, 2022, and is expected to remain so through at least the end of the transfer period.

Although the transfer proposes to only use Reclamation facilities, DWR and Reclamation coordinate SWP/CVP facility operations. Entry of transfer information in WTIMS is important for coordination between DWR and Reclamation of SWP/CVP operations. Entry of the information into WTIMS is also in the public interest because WTIMS plays an important role by compiling technical information related to all transfers and making that information available to both the public and involved parties such as the State Water Board. Therefore, the State Water Board has included a condition in this order for the Petitioner to enter the transfer information in WTIMS.

4.3 Comments of Reclamation

By letter dated August 16, 2022, Reclamation commented on EID's proposed water transfer. Reclamation requested that the Order approving the proposed transfer be contingent upon a refill agreement between Reclamation and EID and include the following conditions to protect Reclamation's water rights and operations for the Jones

Pumping Plant.

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

Petitioner Response

The Petitioner indicated that they do not object to the conditions proposed by Reclamation. The Petitioner also acknowledged that a Warren Act contract between Reclamation and WWD would need to be obtained to convey the transfer water to WWD.

State Water Board Response

This Order includes a condition requiring EID to obtain a reservoir refill agreement with Reclamation and DWR prior to initiating the transfer. This Order also includes a condition that requires a Warren Act contract between Reclamation and WWD be obtained if EID uses the Jones Pumping Plant, or any other Reclamation facility for water delivery under the transfer.

5.0 POTENTIAL CURTAILMENT

During any period in 2022 that License 2184 is curtailed, EID will be required to cease all diversion under License 2184 in accordance with the curtailment order, including any diversions for temporary transfer, regardless of whether the actual diversion be facilitated by Reclamation, or other CVP facilities. A condition is therefore included in this Order that only water collected to storage prior to issuance of the curtailment order may be used and/or transferred.

6.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Water Code section 1729 exempts temporary changes involving a transfer of water from the requirements of CEQA. (Pub. Resources Code, § 21000 et seq.) The State Water Board will file a Notice of Exemption.

7.0 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).

8.0 REQUIRED FINDINGS OF FACT

8.1 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 the absence of the proposed transfer, EID indicated the transfer water would have remained in storage in Weber Reservoir.

The State Water Board conducted an independent evaluation of its records. The annual use under License 2184 was 1,125 af, 1,125 af, 337 af, 1,000 af, and 0 af during 2017, 2018, 2019, 2020, and 2021, respectively. The maximum authorized storage is 1,125 af under License 2184 and the minimum storage must be 200 af on September 1. EID indicated that Weber Reservoir storage is forecast to decrease to 220 af prior to refilling in the fall and winter 2022/2023.

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.

8.2 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, § 1727, subd. (b)(1).)

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

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 Weber Reservoir pursuant to License 2184. In the absence of the proposed transfer, the water would remain in storage for future use by EID and would not be available to other water users. Further, the release of the water from storage at Weber Reservoir pursuant to the temporary transfer will not reduce the available supply to any other legal user of water downstream.

The refill criteria provide for an accounting of refill of Weber 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, according to a schedule agreed to by EID, DWR, and Reclamation.

EID will enter into a reservoir refill agreement with DWR and Reclamation ensuring that future refill of any storage space in Weber Reservoir created by the transfer will not reduce the amount of water that Reclamation 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 1727, 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.

8.3 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, § 1727, subd. (b)(2).) The Petitioner provided CDFW and the Central Valley Regional Water Quality Control Board (Central Valley Water Board) with a copy of the petition in accordance with California Code of Regulations, title 23, section 794, subdivision (c). CDFW provided comments regarding the transfer as described in Section 4.2 of this Order. Condition 8 has been included in this Order based on CDFW’s comments. The Central Valley Water Board

did not provide any comments to the State Water Board regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

Up to 750 af of water would be withdrawn from Weber Reservoir in September 2022 for the transfer. The release rate would be approximately 12 cfs in September. A refill agreement with DWR and Reclamation will be required for the water transferred from Weber Reservoir. The 750 af transfer amount is a relatively small volume compared to the total South Fork American River inflow. Computed inflow to Folsom Reservoir in September 2020 was 41,013 af and in September 2021 was 83,168 af. The proposed transfer of 750 af represents approximately 1.8% of September 2020 computed inflow and 0.9% of September 2021 computed inflow.

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

In light of the above, and in accordance with Water Code section 1727, 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.

9.0 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. Resolution No. 2012-0029 authorizes the Deputy Director to redelegate this authority, and this authority has been so redelegated by memorandum dated June 6, 2022.

10.0 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:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will neither injure, nor unreasonably affect, any legal user of water, including during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petitions filed for temporary change for the transfer of up to 750 acre-feet (af) of water under El Dorado Irrigation District's (EID or Petitioner) License 2184 is approved.

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

1. The transfer is limited to the period commencing on the date of this Order and continuing through November 30, 2022.
2. The following points of rediversion are temporarily added to License 2184:

Central Valley Project's Bill Jones Pumping Plant (Jones Pumping Plant):
CCS83, Zone 3, North 2,121,505 feet and East 6,255,368 feet, being within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 29, T1S, R4E, MDB&M.

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

The place of use under License 2184 is temporarily expanded to include the service area of the Westlands Water District (WWD) as shown on Central Valley Project Map 214-202-84 filed with the Division.

3. If, at any time prior to or during the period of transfer, the State Water Board curtails diversions pursuant to License 2184, only water collected to storage prior to issuance of the curtailment may be transferred pursuant to this Order.
4. Carriage loss shall be deducted from any water transferred through the Delta and delivered under this Order.

5. Rediversion of water at the Jones Pumping Plant is subject to compliance by the operators with the objectives currently required of Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation) set forth in Tables 1, 2, and 3 on pages 181-187 of State Water Resources Control Board Revised Water Right Decision 1641 (D-1641), or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at that point of diversion, including compliance with the various plans required under D-1641. Diversion of water is also subject to compliance by DWR and Reclamation with all applicable biological opinions and court orders and any other conditions imposed by other regulatory agencies applicable to these operations.
6. Rediversion of water at the Jones Pumping Plant is also subject to compliance with any State Water Board Orders establishing temporary or interim operating conditions during the transfer period, except if the State Water Board has specifically exempted conveyance of transfer water from the Order.
7. Petitioner shall ensure that any required Warren Act contract between Reclamation and WWD is executed prior to use of the Jones Pumping Plant, or any other Reclamation facility for the delivery of water to WWD under this transfer. Petitioner shall provide confirmation to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 30 days of issuance of this Order.
8. EID shall work closely with Reclamation and regulatory agencies on the release timing of transfer water into and out of Folsom to maximize cold-water pool gains and minimize cold-water pool losses associated with a water transfer in order to better maintain rearing habitat for steelhead. EID shall also work closely with Reclamation and regulatory agencies on adaptively accounting for transfer water. Petitioner shall provide confirmation to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 15 days following the end of the transfer period.
9. Water may not be transferred through the Jones Pumping Plant until EID has executed a Refill Agreement between DWR and Reclamation and EID to address potential refill concerns in Weber Reservoir. Documentation that an acceptable Refill Agreement has been agreed to by DWR and Reclamation and EID shall be submitted to the Division within 15 days of the date of execution 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. EID 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 DWR and Reclamation.

10. EID shall utilize the Water Transfers Information Management System (WTIMS) to document this transfer by entering the data identified by WTIMS for reservoir re-operation transfers applicable to the transfer approved by this Order.
11. By December 15, 2022, EID shall provide to the Deputy Director for Water Rights a report including one or more tables describing the transfer authorized by this Order. The report shall include the following information:
 - a. The general location of where water was delivered, and the acreage and/or population served by water delivered to WWD pursuant to this Order;
 - b. The average daily release rates and corresponding volume of water released from Weber Reservoir as a result of this transfer (reported on a daily basis);
 - c. For each day of the transfer, the daily average rate of water diverted at Weber Reservoir and daily volume of water re-diverted at the Jones Pumping Plant pursuant to this Order;
 - d. The daily amounts of water delivered to WWD pursuant to this Order;
 - e. The amount of the Refill Reservation as defined in the Refill Agreement (reported on a daily basis); and
 - f. Recognizing that reservoir refill will occur after the transfer ends, monthly reporting of reservoir refill is not required during the transfer period. However, EID shall provide reservoir refill reporting in its Report of Licensee by April 1 of each year on monthly reservoir refill until the reservoir Refill Agreement has been satisfied. This occurs when the value of the Refill Reservation, as defined in the Refill Agreement, equals zero. These reports shall include the daily values of the Refill Reservation.

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

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 threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (ESA) (Fish & G. Code, §§ 2050-2097) or the federal ESA (16 U.S.C. §§ 1531-1544). 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.
14. The State Water Board reserves authority to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: September 19, 2022