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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Change Petition 20
(WW0020)

El Dorado Irrigation District

AMENDED ORDER APPROVING TEMPORARY URGENCY CHANGE (WITH MODIFICATIONS DATED AUGUST 1, 2014)

SOURCE: Deer Creek tributary to Cosumnes River

COUNTY: El Dorado County

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION

On March 10, 2014, El Dorado Irrigation District (EID) filed a Temporary Urgency Change Petition (TUCP) with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) requesting approval of a change pursuant to California Water Code section 1435. The petition was incomplete until March 27, 2014 when the petition fee was submitted. In Order WR 95-9, the State Water Board amended an October 5, 1994 Division Order which authorized EID to discontinue discharge of treated wastewater to Deer Creek. Order WR 95-9 requires EID to continue releasing specified discharges to Deer Creek. In the TUCP, EID seeks to eliminate the instream discharges.

The temporary urgency change would be effective for 180 days from the date of the ~~approved Order~~ original Order. The Order was originally approved on June 5, 2014 and is effective through December 2, 2014.

2.0 BACKGROUND

EID's TUCP involves Wastewater Change Petition 20 (WW0020). EID filed Petition WW0020 on September 14, 1992 to change the point of discharge, place of use, and purpose of use of the treated wastewater from Deer Creek Wastewater Treatment Plant (WWTP). On October 5, 1994, the Division approved WW0020 granting the petition for change. On May 3, 1995, the State Water Board issued Order 95-9 reconsidering approval of WW0020. Order WR 95-9: (a) approved WW0020; (b) added irrigation as a purpose of the use of the treated wastewater; (c) added the service area within the El Dorado Hills Development north of Highway 50 near Cameron Park as the place of use of the treated wastewater; (d) added minimum bypass terms including 1) EID shall discharge a minimum of 0.5 million gallons per day (mgd) of treated wastewater to Deer Creek whenever the Deer Creek WWTP produces less than a daily average of 2.5 mgd; and 2) EID shall discharge a minimum of 1.0 mgd of treated waste water into Deer Creek whenever the Deer Creek WWTP produces more than a daily average of 2.5 mgd. EID is currently discharging approximately 0.7 mgd into Deer Creek.

Over the last thirty years, EID's recycled water program has grown extensively. EID has one of the largest recycled water irrigation programs in the State. EID has over 4,000 metered connections, the majority of which utilize recycled water for front and backyard irrigation. In EID's service area, a typical home utilizes 60% of its total water demand for outside irrigation purposes. As required by State law, EID maintains its irrigation system separate from the indoor distribution system because it contains treated wastewater. The irrigation water demand on EID's system exceeds the available recycled water supply. Consequently, for the past two years EID has provided 560 acre-feet (af) of supplemental water to the irrigation system. The supplemental water would otherwise have been used for other purposes, including indoor consumptive use.

The District has two wastewater treatment plants that produce tertiary treated and disinfected recycled water for unrestricted reuse. On average, EID's plants produce 2,600 af per year of recycled water. A portion of the 2,600 af of recycled water which EID produces is discharged into Deer Creek pursuant to Order WR 95-9.

3.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On February 4, 2014, EID's Board of Directors adopted a resolution declaring that the drought conditions constitute an emergency within the meaning of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), making actions taken to address those conditions exempt from CEQA's requirements. More specifically, Public Resources Code section 21080, subdivision (b)(4) and CEQA Guidelines section 15269, subdivision (c) exempt from CEQA any actions that are necessary to prevent or mitigate an emergency. CEQA Guidelines section 15359 defines "emergency" as "a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services." EID filed a notice of exemption (NOE) on this project dated February 5, 2014.

The State Water Board has reviewed the information submitted by EID and has made its own independent finding that CEQA is suspended for this action under the Governor's January 17, 2014 Proclamation of a Drought State of Emergency (January Proclamation). Specifically, the January Proclamation ordered that "the Water Board will take actions necessary to make water immediately available, and, for purposes of carrying out directives 5 and 8, Water Code section 13247 and Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are suspended on the basis that strict compliance with them will prevent, hinder, or delay the mitigation of the effects of the emergency." (January Proclamation, ¶ 9.) Directive 8 orders "The Water Board will consider modifying requirements for reservoir releases or diversion limitations, where existing requirements were established to implement a water quality control plan. These changes would enable water to be conserved upstream later in the year to protect cold water pools for salmon and steelhead, maintain water supply, and improve water quality." (*Id*., ¶ 8.) The State Water Board will reflect this action on its website consistent with Directive 9 of the January Proclamation.

4.0 PUBLIC NOTICE OF THE TEMPORARY URGENCY CHANGE PETITION

The State Water Board ~~will issue~~ issued a~~, as soon as practicable,~~ public notice of the TUCP pursuant to Water Code section 1438, subdivision (a) on June 6, 2014. The noticing period ended on July 7, 2014. Pursuant to Water Code section 1438, subdivision (b)(1), EID was required to publish the notice in a newspaper having a general circulation, and that is published within the counties where the points of diversion are located. EID published the notice on June 27, 2014, in the Mountain Democrat. The State Water Board ~~will post~~ posted the notice of the temporary urgency change and the TUCP (and accompanying materials) on its website. The State Water Board also ~~will distribute~~ distributed the notice through an electronic notification system. Pursuant to Water Code section 1438, the State Water Board may issue a temporary urgency change order in advance of the required notice. The original Order was issued prior to notice issuance. Forty objection letters were received during the noticing period.

Objections filed by Robert Kern, Diane Moser, and Lisa Couper et al. state that the TUCP will injure riparian users and well users downstream of the Deer Creek WWTP. This issue is addressed in Section 5.3.

The majority of the objections state that the TUCP will cause adverse impacts to the Deer Creek riparian habitat and fish and wildlife resources. The Division will address this group of objections after it completes an evaluation to determine whether further action, beyond the requirements of Condition 2 of the Order, is appropriate.

Objections were filed on the basis of adequacy of the CEQA compliance. The CEQA evaluation is found in Section 3.0.

Objections were also filed on the adequacy of the notice. Persons that participated in the proceeding related to Order WR 95-9 claimed that they should have received notice of the TUCP. The Division provided the

notice to all persons who are interested in the subject issue and have previously signed up to receive notices through the electronic notification system. The notice was also published in a newspaper of general circulation in the County of El Dorado pursuant to Water Code Section 1438 (b) for noticing of temporary urgency changes.

5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Water Code section 1435 provides that a permittee or licensee who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for a conditional temporary change order. The State Water Board's regulations set forth the filing and other procedural requirements applicable to TUCPs. (Cal. Code Regs., tit. 23, §§ 805, 806.) The State Water Board's regulations also clarify that requests for changes to permits or licenses other than changes in point of diversion, place of use, or purpose of use may be filed subject to the same filing and procedural requirements that apply to changes in point of diversion, place of use, or purpose of use. (*Id*., § 791, subd. (e))

Before approving a temporary urgency change, the State Water Board must make the following findings:

a. The Petitioner has an urgent need to make the proposed change;

b. The proposed change may be made without injury to any other lawful user of water;

c. The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and

d. The proposed change is in the public interest. (Wat. Code, § 1435, subd. (b)(1-4).)

5.1 Urgency of the Proposed Change

Under Water Code section 1435, subdivision (c), an "urgent need" means "the existence of circumstances from which the State Water Board may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented . . ." However, the State Water Board shall not find the need urgent if it concludes that the petitioner has failed to exercise due diligence in petitioning for a change pursuant to other appropriate provisions of the Water Code.

EID has an urgent need to temporarily lower the minimum wastewater discharge into Deer Creek required by Order 95-9. This action will preserve the potable water supply for domestic use, because it will substitute use of treated wastewater supply for the potable water currently used for irrigation. EID has instituted its Drought Stage 2 Actions, which include water use reductions of up to 30%. The Order originally required that the re-allocated treated wastewater be utilized consistent with EID's 2014 water conservation requirements and the Governor's 2014 Drought State of Emergency Proclamation. After issuance of the original Order, the Division established a standard conservation term U (per Cal. Code Regs., tit. 23, § 780) for inclusion in Water Code section 1435 Orders during drought conditions where the urgency or public interest findings rely on drought conditions. The Order was revised to substitute the original conservation term with the new standard term U.

On March 4, 2014, EID declared a Stage 2 Drought Emergency and asked its customers to reduce water use by 30 percent. If the area doesn't receive significant precipitation, EID's water storage supplies will continue to be depleted, and the District may need to further limit and reduce water uses for health and safety purposes only. Therefore, EID is requesting that all effluent discharged to Deer Creek be utilized in its irrigation system, which will allow it to maximize use of the potable water supply for indoor uses.

5.2 Governor's 2014 Drought State of Emergency Proclamation

On April 25, 2014, Governor Edmund G. Brown Jr. issued a Proclamation of Continued State of Emergency (Proclamation) to strengthen the state's ability to manage water and habitat effectively in drought conditions and calls on all Californians to redouble their efforts to conserve water. The Proclamation finds that the continuous severe drought conditions present urgent challenges across the state including water shortages in communities and for agricultural production, increased wildfire activity, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity if drought conditions continue into 2015. In

the Proclamation, the Governor directs the Department of Water Resources (DWR) and the State Water Board to expedite approvals of voluntary water transfers to assist farmers. The Governor also calls on all California residents to conserve water via the following:

a. Avoid using water to clean sidewalks, driveways, parking lots, and other hardscapes;

b. Turn off fountains and other decorative water features unless recycled or grey water is available;

c. Limit vehicle washing at home by patronizing local carwashes that use recycled water;

d. Limit outdoor watering of lawns and landscaping to no more than two times a week.

The Proclamation refers to the January Proclamation, declaring a drought State of Emergency to exist in California due to severe drought conditions. The January Proclamation notes that the state is experiencing record dry conditions, with 2014 projected to become the driest year on record. Since January, state water officials indicate that reservoirs, rainfall totals, and the snowpack remain critically low. Current electronic readings show the snowpack's statewide water content at just 16% of average. The January Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmer's long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction. The January Proclamation also calls on all Californians to reduce their water usage by 20%.

5.3 No Injury to Any Other Lawful User of Water

No downstream diverters of record would be injured by the requested change. Robert Kern diverts water under riparian claim of right (Statement 14321). Order 95-9 found ~~finds~~ that the wastewater EID discharged~~s~~ into Deer Creek primarily is supplied by water sources which are located outside the drainage area of Deer Creek. Under natural conditions, the water from these sources would not flow into Deer Creek. Thus, Order 95-9 found that t~~T~~he downstream diverters on Deer Creek do not have senior water rights to the treated wastewater from the Deer Creek WWTP. Based on Order 95-9, the wastewater discharged into Deer Creek is not subject to riparian claim of right by Robert Kern.

The other objections filed on the basis of injury to downstream rights and/or downstream wells did not meet the requirements and are not acceptable. The objections generally allege harm, without specifying persons that would be harmed. To be acceptable, the objections should have identified the names of the users of water, stated the basis of right for each water diverter, and identified the location of the diversion facilities. (Wat. Code § 1703.6 (c).)

Therefore, the TUCP will not injure any other lawful user downstream of the Deer Creek WWTP.

5.4 No Unreasonable Effect upon Fish, Wildlife, or Other Instream Beneficial Uses

Approval of the TUCP will result in reduction of discharge flow to the Deer Creek. To protect fish, wildlife, or other instream beneficial uses from adverse impacts caused by the proposed change, flow reduction will be allowed based on an adaptive approach which requires that flow reduction impacts be evaluated on a real-time basis. CDFW was consulted on the adaptive flow management concept and supports the method because it will provide study results to inform CDFW of appropriate flow regimes for EID's proposed future long-term change petition. EID is currently preparing an environmental document for the long-term change petition.

According to a study[1] conducted by Robertson-Bryan, Inc. in February 2014, a flow of 0.5 mgd may be sufficient to support the fishery, wildlife, and instream beneficial use downstream of the Deer Creek WWTP to Latrobe Road. CDFW advised the State Water Board that, due to drought conditions, an initial flow reduction to 0.43 mgd was acceptable and the study data collected at this flow would be useful for purpose of analyzing the future long-term change request. The adaptive approach is described as follows:

a. EID may reduce the discharge to 0.43 mgd, and shall remain at that discharge amount until it studies the impacts on fisheries, and CDFW agrees that a further step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

b. Thereafter, EID may reduce the discharge by an incremental step of 25 percent. EID shall remain at that discharge amount until it studies the impacts on fish and wildlife and CDFW agrees that another step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

c. Any further reductions shall occur in the same manner as set forth in (b). Should the studies indicate that a particular discharge amount (including the initial reduction amount of 0.43 mgd) is resulting in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately upon completion of the studies documenting such effect, to the previous authorized discharge amount. EID shall maintain the higher discharge amount until monitoring is completed and the monitoring documents that conditions have improved and there is no longer an unreasonable effect upon fish and wildlife, or until expiration of this Order, whichever occurs first. When conditions are improved, EID may reduce the discharge by a smaller incremental amount that is acceptable to CDFW and the Deputy Director for Water Rights. Each fishery study required for a reduction in discharge shall be completed within 15 days of the associated reduction in discharge amount. The study results shall be reported to CDFW and the Division within 5 days after they become available.

EID's proposed fishery study methodology is listed below:

a. Five days prior to the first flow reduction, EID will place temperature loggers into three pools that exist in the reach extending from approximately 0.5 to 2 miles downstream of the Deer Creek WWTP. At the same time, EID shall use qualified biologists to:

    1) Photo-document multiple pool, riffle, and run/glide habitats that exist within the initial four miles downstream of the Deer Creek WWTP;

    2) Measure depths within a subset of each of these habitat types that exist between the Deer Creek WWTP and Latrobe Road, which is located approximately 4 miles downstream of the Plant.

b. Five days (or the least minimum time allowing the creek flows and pool levels to reach a new equilibrium condition) following the initial flow reduction, EID shall have qualified biologists walk the 4-mile assessment reach to:

    1) Photo-document the same pool, riffle, and run/glide habitats that were initially assessed;

    2) Measure depths within the same subset of each of these habitat types initially measured; and

    3) Download the temperature loggers.

[1] Deer Creek Wastewater Treatment Plant effects on biological resources of eliminating or reducing the minimum discharge requirement. Robertson-Bryan, Inc. February 2014.

c. After the above information is collected, EID shall have qualified biologists evaluate whether the new hydrologic and temperature conditions will keep fish and wildlife within the 4-mile assessment reach downstream of the Deer Creek WWTP in good condition, with an emphasis on the initial 2-mile reach downstream of the Deer Creek WWTP where the majority of large pool habitats exist. This information will be submitted to CDFW and the Division within 5 days of its field collection date. Based on this information, CDFW shall inform the Division and EID whether it approves the current flow reduction and whether it will approve another step-wise flow reduction. If CDFW determines the current discharge amount may result in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately to the previous authorized discharge amount and shall remain at that discharge amount until monitoring documents that conditions have improved and there is no longer an unreasonable effect upon fish and wildlife, or until expiration of this Order, whichever occurs first.

d. Upon each subsequent flow reduction, the above-defined field surveys, impact assessments, and CDFW determinations will be repeated. This process will continue until a minimum discharge condition that does not result in unreasonable effects is identified and then EID will remain at that discharge amount thereafter until expiration of this Order. In addition, field surveys and temperature logger downloads, as defined above, also will occur in the first half of July and August. Findings from these July and August surveys and assessments will be used to make adjustments to minimum discharge patterns and volumes, as necessary, to ensure no unreasonable effect on fish and wildlife.

In light of the above, I find in accordance with Water Code section 1435, subdivision (b)(4) that the proposed change will not unreasonably affect fish, wildlife, or other instream beneficial uses.

5.5 The Proposed Change is in the Public Interest

Approval of the TUCP will enable EID to reduce the amount of potable water needed to supplement the irrigation system demand for the District. It is in the public interest to conserve the potable water supply for beneficial use during the present critically dry hydrological conditions in 2014.

In light of the above, I find in accordance with Water Code section 1435, subdivision (b)(4) that the proposed change is in the public interest, including findings to support change order conditions imposed to ensure that the change is in the public interest. Pursuant to Water Code section 1439, the State Water Board shall supervise diversion and use of water under this temporary change order for the protection of all other lawful users of water and instream beneficial uses.

6.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1435.

I conclude that, based on the available evidence:

1. The Petitioner has an urgent need to make the proposed change;

2. The petitioned change will not operate to the injury of any other lawful user of water;

3. The petitioned change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and

4. The petitioned change, with the modifications described above, is in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT the Petition filed by EID for a 180-day temporary urgency change in WW0020 and Order 95-9 is approved, subject to the following conditions:

1. EID is authorized to reduce its discharge of treated wastewater into the Deer Creek in an adaptive manner as follows:

    a. EID may reduce the discharge to 0.43 mgd. and shall remain at that discharge amount until it studies the impacts on fish and wildlife and CDFW agrees that a further step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

    b. Thereafter, EID may reduce the discharge an incremental step of 25 percent. EID shall remain at that discharge amount until it studies the impacts on fish and wildlife and CDFW agrees that another step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

    c. Any further reductions shall occur in the same manner as set forth in (b). Should the studies indicate that a particular discharge amount (including the initial reduction amount of 0.43 mgd.) is resulting in an unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately upon completion of the studies documenting such effect, to the previous authorized discharge amount. EID shall maintain the higher discharge amount until monitoring is completed and the monitoring documents that conditions have improved and there is no longer an unreasonable effect upon fish and wildlife, or until expiration of this Order, whichever occurs first. When conditions are improved, EID may reduce the discharge by a smaller incremental amount that is acceptable to CDFW and the Deputy Director for Water Rights. Within 15 days of any reduction in discharge amount, the associated fishery study shall be completed. The study results shall be reported to CDFW and the Division within 5 days after they become available.

2. EID shall comply with the following fishery monitoring plan. Any changes to the monitoring plan are subject to review and approval by the Deputy Director for Water Rights:

    e. Five days prior to the first flow reduction, EID shall place temperature loggers into three pools that exist in the reach extending from approximately 0.5 to 2 miles downstream of the Deer Creek WWTP. At the same time, EID shall use qualified biologists to:

        1) Photo-document multiple pool, riffle, and run/glide habitats that exist within the initial four miles downstream of the Deer Creek WWTP;

        2) Measure depths within a subset of each of these habitat types that exist between the Deer Creek WWTP and Latrobe Road, which is located about 4 miles downstream of the Plant.

    f. Five days (or the least minimum time allowing the creek flows and pool levels to reach a new equilibrium condition) following the initial flow reduction, EID shall have qualified biologists walk the 4-mile assessment reach to:

        1) Photo-document the same pool, riffle, and run/glide habitats that were initially assessed;

        2) Measure depths within the same subset of each of these habitat types initially measured; and

        3) Download the temperature loggers.

g. After the above information is collected, EID shall have qualified biologists evaluate whether the new hydrologic and temperature conditions will keep fish and wildlife within the 4-mile assessment reach downstream of the Deer Creek WWTP in good condition, with an emphasis on the initial 2-mile reach downstream of the Deer Creek WWTP where the majority of large pool habitats exists. This information shall be submitted to CDFW and the Division within 5 days of its field collection date. Based on this information, CDFW shall inform the Division and EID whether it concurs with the current flow reduction and whether it is agreeable to another step-wise flow reduction. If CDFW determines the current discharge amount may result in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately to the previous authorized discharge amount and shall remain at that discharge amount thereafter or until expiration of this Order, whichever occurs first.

h. Upon each subsequent flow reduction, the above-defined field surveys, impact assessments, and CDFW determinations shall be repeated. This process may continue until a minimum discharge condition that does not result in unreasonable effects is identified and then EID shall remain at that discharge amount until expiration of this Order. In addition, field surveys and temperature logger downloads, as defined above, also shall occur in the first half of July and August. Findings from these July and August surveys and assessments shall be used to make adjustments to minimum discharge patterns and volumes, as necessary, to avoid unreasonable effect on fish and wildlife.

~~3. Exercise of this change is contingent on implementation of the following water conservation measures related to EID's irrigation water supply. EID may not offset the water conservation required by this condition by using additional potable water supplies for these uses.~~

~~a. In accordance with the Governor's April 25, 2014 Proclamation, EID shall limit outdoor irrigation to two times per week.~~

~~b. EID is currently in Stage 2 of its Drought Action Plan. EID shall implement the existing Drought Action Plan (2014 Update)[2], including the measures listed below. The following measures have been identified as mandatory measures that must be implemented as part of the State Water Board's approval of the TUCP:~~

~~1) All EID customers are targeted to use no more than 70% of the customer's previous 3-year average usage.~~

~~2) All customers shall refrain from using EID's water for the following purposes:~~
- ~~Watering new or replacement turf;~~
- ~~Irrigating new agricultural planting;~~
- ~~Using water from a fire hydrant – except for fighting fires, essential water quality uses, and toxic clean-up purposes.~~

~~3) All outside irrigation shall only occur according to the following schedule:~~
- ~~Outdoor irrigation is limited to the hours between 7:00 pm and 10:00 am;~~
- ~~Irrigation systems shall be turned off during rain events;~~
- ~~Watering days are based on street addresses;~~
- ~~Once-a-week watering is allowed from November 16 - April 15. For customers with addresses ending in even numbers (0, 2, 4, 6, 8): Sunday only. For customers with addresses ending in odd numbers (1, 3, 5, 7, 9): Saturday only;~~
- ~~Twice-a-week watering is allowed from April 16 - November 15. For customers with addresses ending in even numbers: Wednesday and Sunday. For customers with addresses ending in odd numbers: Tuesday and Saturday.~~

~~[2] Received via email by EID on May 12, 2014.~~

~~4) Agricultural metered irrigation customers who do not participate in the Irrigation Management Services program shall submit a detailed conservation plan to EID that demonstrates a minimum of 30% water saving over customer's previous 3-year average usage.~~

c. ~~If EID adopts a more severe drought stage or more stringent drought measures, EID shall implement the more stringent measures and notify the Deputy Director for Water Rights within 15 days of such change.~~

3. The temporary changes authorized by this Order are not effective unless EID is operating in accordance with a Water Demand Reduction Plan (Plan) satisfactory to the Deputy Director for Water Rights. The Plan shall be designed to ensure that all parties that beneficially use water under WW0020, as amended by Order WR 95-9, implement actions to meet a water demand reduction of a minimum of 20 percent of the baseline water demand. The Plan shall define baseline water demand as appropriate for EID's situation based on considerations such as weather, economy, wholesale supplier allocations or other relevant information. For the purpose of compliance with this term, if the Plan does not define baseline water demand, it is assumed to be the average water demand for 2013.

The Plan shall include, at a minimum, the following components:

a. All parties that beneficially use water under WW0020, as amended by Order WR 95-9, and/or parties otherwise subject to the temporary change(s) authorized by this Order;

b. Baseline water demand for all parties included in (a) above;

c. Existing actions and additional actions planned by each party included in (a) above to reduce water use in order to meet the water demand reduction required by this term, including a description of how such actions can be expected to meet the demand reduction. The Plan shall also identify additional actions to be implemented, in the event that EID does not attain the amount of water use demand reduction relative to baseline water demand;

Additional actions to be considered include, at a minimum, those recommended in any applicable Governor's Drought Proclamation as applicable to EID operations, and determine if implementation of such action(s) may increase conservation of their water supply. If so, EID will either implement the recommendation(s) or provide documentation as to why such action is not reasonable for EID's situation. Actions to evaluate include, but are not limited to: 1) Avoiding using water to clean sidewalks, driveways, parking lots, and other hardscapes; 2) Turning off fountains and other decorative water features unless recycled or grey water is used for those water features, 3) Limiting vehicle washing at home by patronizing local carwashes that use recycled water; 4) Limiting outdoor watering of lawns and landscaping to no more than two times a week; 5) Recreational facilities, such as city parks and golf courses, and large institutional complexes, such as schools, business parks and campuses, should immediately implement water reduction plans to reduce the use of potable water for outdoor irrigation; 6) Commercial establishments such as hotel and restaurants should take steps to reduce water usage and increase public awareness of the drought through measures such as offering drinking water only upon request and providing customers with options to avoid daily washing of towels or sheets; 7) Professional sports facilities, such as basketball arenas, football, soccer, and baseball stadiums, and hockey rinks should reduce water usage and increase public awareness of the drought by reducing the use of potable water for outdoor irrigation and encouraging conservation by spectators.

d. For parties included in (a) above over which EID has the authority or other ability to impose the listed water demand reduction actions, a list of such parties and a description of such authority or other ability over each party;

e. For parties included in (a) above over which EID does not have the authority or other ability to impose the listed water demand reduction actions, a list of such parties, a description of the efforts of EID to coordinate with each of the listed parties to ensure that each party take appropriate action to reduce water demand, and a description of such actions for each party;

f. A detailed schedule with planned completion dates for key events.

EID shall submit to the Deputy Director for Water Rights a written report within 15 days of the end of each month (monthly status update) that provides a summary of compliance with this term. The monthly status update shall, at a minimum, include a description of EID's actions to date to comply with the requirements of this term and the results of such actions, including but not limited to the amount of water demand reduction relative to baseline water demand. The data submitted for the amount of water demand reduction shall include both monthly and aggregate annual to date information and shall be compared to baseline water demand. When the monthly status update reflects that EID is not achieving the minimum water demand reduction of this term, EID shall also include additional actions EID has adopted and/or implemented to meet the demand reduction and identify the date when such additional actions will be fully implemented as part of the monthly status update.

Failure to achieve demand reduction may result in modification of this Order to limit the extent of the approved action, at the discretion of the Deputy Director for Water Rights.

4. EID shall submit to the Deputy Director for Water Rights on a monthly basis (starting at the end of June 2014) a written report that summarizes all activities conducted to ensure compliance with the requirements of this Order. The report shall, at a minimum, include a description of EID's efforts to date to comply with the requirements of this Order. ~~and the amount of reduction of water use, including percentage of normal use, achieved as a result of such efforts.~~ EID shall submit a final report no later than the final effective date of this Order.

5. This Order does not authorize any act that results in the taking of a candidate, threatened or endangered species, or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code §§ 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 to 1544). If a "take" will result from any act authorized under this Order, EID shall ensure authorization for an incidental take permit is obtained prior to operation of the project.

6. The State Water Board reserves jurisdiction to supervise the temporary urgency change 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.

7. The temporary urgency changes authorized under this Order shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the State Water Board. The temporary urgency changes approved in this Order shall automatically expire ~~180 days after the date of its issuance~~ on December 3, 2014 unless earlier revoked.

8. Use of water under this temporary urgency change order is contingent on compliance with the following: (a) Urban water suppliers must comply with the Urban Water Management Planning Act. (Wat. Code, § 10610 et seq.); and (b) Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act). (Water Code, § 10800 et seq.), including all water conservation requirements therein.

9. All other terms of WW0020, as amended by Order WR 95-9, remain in effect. Should EID determine that it will not proceed with the changes identified in this Order at any time during the duration of this approval, EID may instead operate in accordance with WW0020, as amended by and Order 95-9, and shall notify the Division within 10 days of any such determination.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
Les Grober, for

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: AUGUST 1, 2014

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

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Change Petition 20
(WW0020)

El Dorado Irrigation District

ORDER APPROVING TEMPORARY URGENCY CHANGE

SOURCE: Deer Creek tributary to Cosumnes River

COUNTY: El Dorado County

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION

On March 10, 2014, El Dorado Irrigation District (EID) filed a Temporary Urgency Change Petition (TUCP) with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) requesting approval of a change pursuant to California Water Code section 1435. The petition was incomplete until March 27, 2014, when the petition fee was submitted. In Order WR 95-9, the State Water Board amended an October 5, 1994 Division order which authorized EID to discontinue discharge of treated wastewater to Deer Creek. Order WR 95-9 requires EID to continue releasing specified discharges to Deer Creek. In the TUCP, EID seeks to eliminate the instream discharges.

The temporary urgency change would be effective for 180 days from the date of the approved Order.

2.0 BACKGROUND

EID's TUCP involves Wastewater Change Petition 20 (WW0020). EID filed Petition WW0020 on September 14, 1992 to change the point of discharge, place of use, and purpose of use of the treated wastewater from Deer Creek Wastewater Treatment Plant (WWTP). On October 5, 1994, the Division approved WW0020 granting the petition for change. On May 3, 1995, the State Water Board issued Order 95-9 reconsidering approval of WW0020. Order WR 95-9: (a) approved WW0020; (b) added irrigation as a purpose of the use of the treated wastewater; (c) added the service area within the El Dorado Hills Development, north of Highway 50 near Cameron Park as the place of use of the treated wastewater; (d) added minimum bypass terms including 1) EID shall discharge a minimum of 0.5 million gallons per day (mgd) of treated wastewater to Deer Creek whenever the Deer Creek WWTP produces less than a daily average of 2.5 mgd; and 2) EID shall discharge a minimum of 1.0 mgd of treated waste water into Deer Creek whenever the Deer Creek WWTP produces more than a daily average of 2.5 mgd. EID is currently discharging approximately 0.7 mgd into Deer Creek.

Over the last thirty years EID's recycled water program has grown extensively. EID has one of the largest recycled water irrigation programs in the State. EID has over 4,000 metered connections, the majority of which utilize recycled water for front and backyard irrigation. In EID's service area, a typical home utilizes 60% of its total water demand for outside irrigation purposes. As required by State law, EID maintains its irrigation system separate from the indoor distribution system because it contains treated wastewater. The

irrigation water demand on EID's system exceeds the available recycled water supply. Consequently, for the past two years EID has provided 560 acre-feet (af) of supplemental water to the irrigation system. The supplemental water would otherwise have been used for other purposes, including indoor consumptive use.

The District has two wastewater treatment plants that produce tertiary treated and disinfected recycled water for unrestricted reuse. On average, EID's plants produce 2,600 af per year of recycled water. A portion of the 2,600 af of recycled water which EID produces is discharged into Deer Creek pursuant to Order WR 95-9.

3.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On February 4, 2014, EID's Board of Directors adopted a resolution declaring that the drought conditions constitute an emergency within the meaning of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.)), making actions taken to address those conditions exempt from CEQA's requirements. More specifically, Public Resources Code section 21080, subdivision (b)(4) and CEQA Guidelines section 15269, subdivision (c) exempt from CEQA any actions that are necessary to prevent or mitigate an emergency. CEQA Guidelines section 15359 defines "emergency" as "a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services." EID filed a notice of exemption (NOE) on this project dated February 5, 2014.

The State Water Board has reviewed the information submitted by EID and has made its own independent finding that CEQA is suspended for this action under the Governor's January 17, 2014 Proclamation of a drought state of emergency (January Proclamation). Specifically, the January Proclamation ordered that "the Water Board will take actions necessary to make water immediately available, and, for purposes of carrying out directives 5 and 8, Water Code section 13247 and Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are suspended on the basis that strict compliance with them will prevent, hinder, or delay the mitigation of the effects of the emergency." (January Proclamation, ¶ 9.) Directive 8 orders "The Water Board will consider modifying requirements for reservoir releases or diversion limitations, where existing requirements were established to implement a water quality control plan. These changes would enable water to be conserved upstream later in the year to protect cold water pools for salmon and steelhead, maintain water supply, and improve water quality." (*Id.*, ¶ 8.) The State Water Board will reflect this action on its website consistent with Directive 9 of the January Proclamation. .

4.0 PUBLIC NOTICE OF THE TEMPORARY URGENCY CHANGE PETITION

The State Water Board will issue, as soon as practicable, public notice of the TUCP pursuant to Water Code section 1438, subdivision (a). Pursuant to Water Code section 1438, subdivision (b)(1), EID is required to publish the notice in a newspaper having a general circulation, and that is published within the counties where the points of diversion are located. The State Water Board will post the notice of the temporary urgency change and the TUCP (and accompanying materials) on its website. The State Water Board will also distribute the notice through an electronic notification system. Pursuant to Water Code section 1438, the State Water Board may issue a temporary urgency change order in advance of the required notice.

5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE

Water Code section 1435 provides that a permittee or licensee who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for a conditional temporary change order. The State Water Board's regulations set forth the filing and other procedural requirements applicable to TUCPs. (Cal. Code Regs., tit. 23, §§ 805, 806.) The State Water Board's regulations also clarify that requests for changes to permits or licenses other than changes in point of diversion, place of use, or purpose of use may be filed, subject to the same filing and procedural

requirements that apply to changes in point of diversion, place of use, or purpose of use. (*Id*., § 791, subd. (e).)

Before approving a temporary urgency change, the State Water Board must make the following findings:

a. The Petitioner has an urgent need to make the proposed change;

b. The proposed change may be made without injury to any other lawful user of water;

c. The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and

d. The proposed change is in the public interest.
(Wat. Code, § 1435, subd. (b)(1-4).)

5.1 Urgency of the Proposed Change

Under Water Code section 1435, subdivision (c), an "urgent need" means "the existence of circumstances from which the board may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented . . ." However, the State Water Board shall not find the need urgent if it concludes that the petitioner has failed to exercise due diligence in petitioning for a change pursuant to other appropriate provisions of the Water Code.

EID has an urgent need to temporarily lower the minimum wastewater discharge into Deer Creek required by Order 95-9. This action will preserve the potable water supply for domestic use, because it will substitute use of treated wastewater supply for the potable water currently used for irrigation. EID has instituted its Drought Stage 2 Actions, which include water use reductions of up to 30%. The order requires that the re-allocated treated wastewater be utilized consistent with EID's 2014 water conservation requirements and the Governor's 2014 Drought State of Emergency Proclamation.

On March 4, 2014, EID declared a Stage 2 Drought Emergency, and asked its customers to reduce water use by 30%. If the area doesn't receive significant precipitation, EID's water storage supplies will continue to be depleted, and the District may need to further limit and reduce water uses for health and safety purposes only. Therefore, EID is requesting that all effluent discharged to Deer Creek be utilized in its irrigation system, which will allow it to maximize use of the potable water supply for indoor uses.

5.2 Governor's 2014 Drought State of Emergency Proclamation

On April 25, 2014, Governor Edmund G. Brown Jr. issued a Proclamation of Continued State of Emergency (Proclamation) to strengthen the state's ability to manage water and habitat effectively in drought conditions and calls on all Californians to redouble their efforts to conserve water. The Proclamation finds that the continuous severe drought conditions present urgent challenges across the state including water shortages in communities and for agricultural production, increased wildfire activity, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity if drought conditions continue into 2015. In the Proclamation, the Governor directs the Department of Water Resources (DWR) and the State Water Board to expedite approvals of voluntary water transfers to assist farmers. The Governor also calls on all California residents to conserve water via the following:

a. Avoid using water to clean sidewalks, driveways, parking lots and other hardscapes;

b. Turn off fountains and other decorative water features unless recycled or grey water is available;

c. Limit vehicle washing at home by patronizing local carwashes that use recycled water;

d. Limit outdoor watering of lawns and landscaping to no more than two times a week.

The Proclamation refers to the January Proclamation, declaring a drought State of Emergency to exist in California due to severe drought conditions. The January Proclamation notes that the state is experiencing

record dry conditions, with 2014 projected to become the driest year on record. Since January, state water officials indicate that reservoirs, rainfall totals and the snowpack remain critically low. Current electronic readings show the snowpack's statewide water content at just 16% of average. The January Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmer's long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction. The January Proclamation also calls on all Californians to reduce their water usage by 20%.

5.3 No Injury to Any Other Lawful User of Water

No downstream diverters of record would be injured by the requested change. Order 95-9 finds that the wastewater EID discharges into Deer Creek primarily is supplied by water sources which are located outside the drainage area of Deer Creek. Under natural conditions, the water from these sources would not flow into Deer Creek. The downstream diverters on Deer Creek do not have senior water rights to the treated wastewater from the Deer Creek WWTP. Therefore, the TUCP will not injure any other lawful user downstream of the Deer Creek WWTP.

5.4 No Unreasonable Effect upon Fish, Wildlife, or Other Instream Beneficial Uses

Approval of the TUCP will result in reduction of discharge flow to the Deer Creek. To protect fish, wildlife, or other instream beneficial uses from adverse impacts caused by the proposed change, flow reduction will be allowed based on an adaptive approach which requires that flow reduction impacts be evaluated on a real-time basis. CDFW was consulted on the adaptive flow management concept and supports the method because it will provide study results to inform CDFW of appropriate flow regimes for EID's proposed future long-term change petition. EID is currently preparing an environmental document for the long-term change petition.

According to a study[1] conducted by Robertson-Bryan, Inc. in February 2014, a flow of 0.5 mgd may be sufficient to support the fishery, wildlife and instream beneficial use downstream of the Deer Creek WWTP to Latrobe Road. CDFW advised the State Water Board that, due to drought conditions, an initial flow reduction to 0.43 mgd was acceptable and the study data collected at this flow would be useful for purpose of analyzing the future long-term change request. The adaptive approach is described as follows:

a. EID may reduce the discharge to 0.43 mgd, and shall remain at that discharge amount until it studies the impacts on fisheries, and CDFW agrees that a further step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

b. Thereafter, EID may reduce the discharge by an incremental step of 25%. EID shall remain at that discharge amount until it studies the impacts on fish and wildlife and CDFW agrees that another step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

c. Any further reductions shall occur in the same manner as set forth in (b). Should the studies indicate that a particular discharge amount (including the initial reduction amount of 0.43 mgd) is resulting in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately upon completion of the studies documenting such effect, to the previous authorized discharge amount. EID shall maintain the higher discharge amount until monitoring is completed and the monitoring

[1] Deer Creek Wastewater Treatment Plant effects on biological resources of eliminating or reducing the minimum discharge requirement. Robertson-Bryan, Inc. February 2014.

documents that conditions have improved and there is no longer an unreasonable effect upon fish and wildlife, or until expiration of this order, whichever occurs first. When conditions are improved, EID may reduce the discharge by a smaller incremental amount that is acceptable to CDFW and the Deputy Director for Water Rights. Each fishery study required for a reduction in discharge shall be completed within 15 days of the associated reduction in discharge amount. The study results shall be reported to CDFW and the Division within 5 days after they become available.

EID's proposed fishery study methodology is listed below:

a. Five days prior to the first flow reduction, EID will place temperature loggers into three pools that exist in the reach extending from approximately 0.5 to 2 miles downstream of the Deer Creek WWTP. At the same time, EID shall use qualified biologists to:

    1) Photo-document multiple pool, riffle, and run/glide habitats that exist within the initial four miles downstream of the Deer Creek WWTP;

    2) Measure depths within a subset of each of these habitat types that exist between the Deer Creek WWTP and Latrobe Road, which is located approximately 4 miles downstream of the Plant.

b. Five days (or the least minimum time allowing the creek flows and pool levels to reach a new equilibrium condition) following the initial flow reduction, EID shall have qualified biologists walk the 4-mile assessment reach to:

    1) Photo-document the same pool, riffle, and run/glide habitats that were initially assessed;

    2) Measure depths within the same subset of each of these habitat types initially measured; and

    3) Download the temperature loggers.

c. After the above information is collected, EID shall have qualified biologists evaluate whether the new hydrologic and temperature conditions will keep fish and wildlife within the 4-mile assessment reach downstream of the Deer Creek WWTP in good condition, with an emphasis on the initial 2-mile reach downstream of the Deer Creek WWTP where the majority of large pool habitats exist. This information will be submitted to CDFW and the Division within 5 days of its field collection date. Based on this information, CDFW shall inform the Division and EID whether it approves the current flow reduction and whether it will approve another step-wise flow reduction. If CDFW determines the current discharge amount may result in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately to the previous authorized discharge amount and shall remain at that discharge amount until monitoring documents that conditions have improved and there is no longer an unreasonable effect upon fish and wildlife, or until expiration of this order, whichever occurs first.

d. Upon each subsequent flow reduction, the above-defined field surveys, impact assessments, and CDFW determinations will be repeated. This process will continue until a minimum discharge condition that does not result in unreasonable effects is identified and then EID will remain at that discharge amount thereafter until expiration of this order. In addition, field surveys and temperature logger downloads, as defined above, also will occur in the first half of July and August. Findings from these July and August surveys and assessments will be used to make adjustments to minimum discharge patterns and volumes, as necessary, to ensure no unreasonable effect on fish and wildlife.

In light of the above, I find in accordance with Water Code section 1435, subdivision (b)(4) that the proposed change will not unreasonably affect fish, wildlife, or other instream beneficial uses.

5.5 The Proposed Change is in the Public Interest

Approval of the TUCP will enable EID to reduce the amount of potable water needed to supplement the irrigation system demand for the District. It is in the public interest to conserve the potable water supply for beneficial use during the present critically dry hydrological conditions in 2014.

In light of the above, I find in accordance with Water Code section 1435, subdivision (b)(4) that the proposed change is in the public interest, including findings to support change order conditions imposed to ensure that the change is in the public interest. Pursuant to Water Code section 1439, the State Water Board shall supervise diversion and use of water under this temporary change order for the protection of all other lawful users of water and instream beneficial uses.

6.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1435.

I conclude that, based on the available evidence:

1. The Petitioner has an urgent need to make the proposed change;

2. The petitioned change will not operate to the injury of any other lawful user of water;

3. The petitioned change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and,

4. The petitioned change, with the modifications described above, is in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT: the Petition filed by EID for a 180-day temporary urgency change in WW0020 and Order 95-9 is approved, subject to the following conditions:

1. EID is authorized to reduce its discharge of treated wastewater into the Deer Creek in an adaptive manner as follows.

    a. EID may reduce the discharge to 0.43 mgd, and shall remain at that discharge amount until it studies the impacts on fish and wildlife and CDFW agrees that a further step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

    b. Thereafter, EID may reduce the discharge an incremental step of 25%. EID shall remain at that discharge amount until it studies the impacts on fish and wildlife and CDFW agrees that another step-wise reduction in discharge is acceptable. EID may implement the next step-wise reduction in discharge amount upon the concurrence of CDFW and the Deputy Director for Water Rights. The State Water Board reserves jurisdiction to evaluate any changes and may modify or eliminate any changes to the discharge amount.

    c. Any further reductions shall occur in the same manner as set forth in (b). Should the studies indicate that a particular discharge amount (including the initial reduction amount of 0.43 mgd) is resulting in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately upon completion of the studies documenting such effect, to the previous authorized discharge amount. EID shall maintain the higher discharge amount until monitoring is completed and the monitoring documents that conditions have improved and there is no longer an unreasonable effect upon fish and wildlife, or until expiration of this order, whichever occurs first. When conditions are improved, EID may reduce the discharge by a smaller incremental amount that is acceptable to CDFW and the Deputy Director for Water Rights. Within 15 days of any reduction in discharge amount, the associated fishery study shall be completed. The study results shall be reported to CDFW and the Division within 5 days after they become available.

2. EID shall comply with the following fishery monitoring plan. Any changes to the monitoring plan are subject to review and approval by the Deputy Director for Water Rights:

    a. Five days prior to the first flow reduction, EID shall place temperature loggers into three pools that exist in the reach extending from approximately 0.5 to 2 miles downstream of the Deer Creek WWTP. At the same time, EID shall use qualified biologists to:

        1) Photo-document multiple pool, riffle, and run/glide habitats that exist within the initial four miles downstream of the Deer Creek WWTP;

        2) Measure depths within a subset of each of these habitat types that exist between the Deer Creek WWTP and Latrobe Road, which is located about 4 miles downstream of the Plant.

    b. Five days (or the least minimum time allowing the creek flows and pool levels to reach a new equilibrium condition) following the initial flow reduction, EID shall have qualified biologists walk the 4-mile assessment reach to:

        1) Photo-document the same pool, riffle, and run/glide habitats that were initially assessed;

        2) Measure depths within the same subset of each of these habitat types initially measured; and

        3) Download the temperature loggers.

c. After the above information is collected, EID shall have qualified biologists evaluate whether the new hydrologic and temperature conditions will keep fish and wildlife within the 4-mile assessment reach downstream of the Deer Creek WWTP in good condition, with an emphasis on the initial 2-mile reach downstream of the Deer Creek WWTP where the majority of large pool habitats exists. This information shall be submitted to CDFW and the Division within 5 days of its field collection date. Based on this information, CDFW shall inform the Division and EID whether it concurs with the current flow reduction and whether it is agreeable to another step-wise flow reduction. If CDFW determines the current discharge amount may result in unreasonable effect upon fish and wildlife, EID shall increase the discharge immediately to the previous authorized discharge amount and shall remain at that discharge amount thereafter or until expiration of this order, whichever occurs first.

d. Upon each subsequent flow reduction, the above-defined field surveys, impact assessments, and CDFW determinations shall be repeated. This process may continue until a minimum discharge condition that does not result in unreasonable effects is identified and then EID shall remain at that discharge amount until expiration of this order. In addition, field surveys and temperature logger downloads, as defined above, also shall occur in the first half of July and August. Findings from these July and August surveys and assessments shall be used to make adjustments to minimum discharge patterns and volumes, as necessary, to avoid unreasonable effect on fish and wildlife.

3. Exercise of this change is contingent on implementation of the following water conservation measures related to EID's irrigation water supply. EID may not offset the water conservation required by this condition by using additional potable water supplies for these uses.

a. In accordance with the Governor's April 25, 2014 Proclamation, EID shall limit outdoor irrigation to two times per week.

b. EID is currently in Stage 2 of its Drought Action Plan. EID shall implement the existing Drought Action Plan (2014 Update)[2], including the measures listed below. The following measures have been identified as mandatory measures that must be implemented as part of the State Water Board's approval of the TUCP:

1) All EID customers are targeted to use no more than 70% of the customer's previous 3-year average usage.

2) All customers shall refrain from using EID's water for the following purposes:
   - Watering new or replacement turf;
   - Irrigating new agricultural planting;
   - Using water from a fire hydrant – except for fighting fires, essential water quality uses, and toxic clean-up purposes.

3) All outside irrigation shall only occur according to the following schedule:
   - Outdoor irrigation is limited to the hours between 7:00 pm and 10:00 am;
   - Irrigation systems shall be turned off during rain events;
   - Watering days are based on street addresses;
   - Once-a-week watering is allowed from November 16 - April 15. For customers with addresses ending in even numbers (0, 2, 4, 6, 8): Sunday only. For customers with addresses ending in odd numbers (1, 3, 5, 7, 9): Saturday only;

[2] Received via email by EID on May 12, 2014.

- Twice-a-week watering is allowed from April 16 - November 15. For customers with addresses ending in even numbers: Wednesday and Sunday. For customers with addresses ending in odd numbers: Tuesday and Saturday.

4) Agricultural metered irrigation customers who do not participate in the Irrigation Management Services program shall submit a detailed conservation plan to EID that demonstrates a minimum of 30% water saving over customer's previous 3-year average usage.

c. If EID adopts a more severe drought stage or more stringent drought measures, EID shall implement the more stringent measures and notify the Deputy Director for Water Rights within 15 days of such change.

4. EID shall submit to the Deputy Director for Water Rights on a monthly basis (starting at the end of June 2014) a written report that summarizes all activities conducted to ensure compliance with the requirements of this Order. The report shall, at a minimum, include a description of EID's efforts to date to comply with the requirements of this Order and the amount of reduction of water use, including percentage of normal use, achieved as a result of such efforts. EID shall submit a final report no later than the final effective date of this order.

5. This Order does not authorize any act that results in the taking of a candidate, threatened or endangered species, or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this Order, EID shall ensure authorization for an incidental take permit is obtained prior to operation of the project.

6. The State Water Board reserves jurisdiction to supervise the temporary urgency change 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.

7. The temporary urgency changes authorized under this Order shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the Board. The temporary urgency changes approved in this Order shall automatically expire 180 days after the date of its issuance unless earlier revoked.

8. Use of water under this temporary urgency change order is contingent on compliance with the following: (a) urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.), and (b) agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.), including all water conservation requirements therein.

9. All other terms of WW0020, as amended by Order WR 95-9, remain in effect. Should EID determine that it will not proceed with the changes identified in this order at any time during the duration of this approval, EID may instead operate in accordance with WW0020, as amended by and Order 95-9, and shall notify the Division within 10 days of any such determination.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JUN 05 2014