

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF LICENSE 9063 (APPLICATION 10529)
PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 17,433 ACRE-FEET OF WATER
FROM SUTTER EXTENSION WATER DISTRICT
TO STATE WATER CONTRACTOR AGENCIES**

SOURCE: Feather River

COUNTY: Sutter

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On March 9, 2016, Sutter Extension Water District (SEWD or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a petition for temporary change under Water Code Section 1725, et seq. SEWD has requested to transfer up to 17,433 acre-feet (af) of water to participating State Water Contractor (SWC) Agencies. The SWC Agencies that will use the water include: Dudley Ridge Water District, Kern County Water Agency, Metropolitan Water District of Southern California, Palmdale Water District, Santa Clara Valley Water District, and San Bernardino Valley Municipal Water District. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

1.1 Description of the Transfer

SEWD proposes to transfer up to 17,433 af of water under water right License 9063 (Application 10529) to SWC Agencies via groundwater substitution and crop idling programs. Of the 17,433 af transfer total, up to 4,540 af (prior to subtracting a streamflow depletion loss) will be made available by groundwater substitution and up to 12,893 af will be made available by crop idling. To facilitate this transfer, SEWD is requesting the following changes to License 9063: (1) the temporary addition of the State Water Project's (SWP) Harvey O. Banks Pumping Plant (Banks Pumping Plant) as a point of diversion; (2) the temporary addition of the San Luis Reservoir as a point of redirection; (3) the temporary addition of a portion of the service area of the SWP as an additional place of use; and (4) the temporary addition of municipal, industrial, and domestic uses as purposes of use.

SEWD will make surface water available for transfer via groundwater substitution and crop idling. The groundwater substitution involves the use of groundwater pumped from within SEWD boundaries to irrigate crops within SEWD in exchange for a like amount of surface water (minus a streamflow depletion loss) that will remain instream for diversion at the proposed additional point of diversion and point of redirection. Crop idling involves a reduction in consumptive use of surface water to make water available based on the evapotranspiration of applied water (ETAW) pattern for the idled crops. SEWD plans to idle approximately 3,907 acres previously planted with rice. Absent the proposed temporary transfer, SEWD would divert the entire quantity of surface water proposed for transfer from the Feather River pursuant to its water right for irrigation use within SEWD boundaries.

1.2 Groundwater Substitution

Under a groundwater substitution transfer, surface water supply is made available for transfer as a result of the Petitioner reducing the amount of water it would have diverted under its surface water right and replacing those diversions with groundwater pumping. Depending on various factors including the distance of the groundwater well(s) from the surface stream, depth of the well(s), and local hydrogeologic conditions, the

increase in groundwater pumped by the Petitioner to enable the transfer results in a reduction in the amount of water that would otherwise have accrued to the stream due to the interconnection of surface water and groundwater (streamflow depletion). Consequently, groundwater pumping for transfer operations will provide water at the expense of current and future streamflow. Flow reduction in a river, stream, canal, or drain due to groundwater substitution transfers has the potential to injure other legal users of water if it occurs when the Delta is in balanced conditions¹ or there is limited streamflow in the channel from which the water is being transferred.

Proposals for transfers of water through Central Valley Project (CVP) and/or SWP facilities that involve groundwater substitution are developed to be consistent with the Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), dated December 2015 prepared by the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation). Depending on well location and associated impacts to surface water supply, DWR and Reclamation determine which wells are appropriate for groundwater substitution transfer use. The DWR and Reclamation well criteria used to evaluate groundwater substitution transfers is intended to minimize impacts to streamflow during balanced conditions in the Delta and potential impacts to SWP and CVP operations.

DWR and Reclamation are currently applying a minimum 13 percent streamflow depletion factor to each groundwater substitution transfer project meeting the criteria contained in the Draft Technical Information unless available information analyzed by DWR and Reclamation supports the need for the development of a site-specific streamflow depletion factor. Transfer proponents may also submit site-specific technical analysis supporting a modified proposed streamflow depletion factor for review and consideration by DWR and Reclamation.

SEWD has indicated that its proposed transfer of water will be consistent with the Draft Technical Information. As such, the groundwater substitution component of this transfer is conditioned to allow use of only those wells found acceptable by DWR and Reclamation, and the wells must be in compliance with DWR's and Reclamation's well construction, location and monitoring criteria as well as the application of the streamflow depletion factor. DWR's and Reclamation's streamflow depletion factor of 13 percent will be applied to SEWD's groundwater substitution transfer. Therefore, to account for streamflow depletion related to groundwater pumping, SEWD will only transfer 87 percent of the total quantity pumped in exchange for the surface water available for transfer.

All groundwater substitution transfers are subject to applicable county regulations, including any regulations prohibiting transfer. The boundaries of SEWD are within Sutter County, which completed and adopted a groundwater management plan (GMP) in March 2012 pursuant to Water Code section 10753. The March 2012 GMP relies on data from an extensive network of DWR and water purveyors' production and monitoring wells. The GMP identifies that DWR does not currently consider any of the groundwater sub-basins underlying Sutter County to be in an overdraft state.

Long-Term Impacts to Stream Flow from Groundwater Substitution Transfers

Depletion of surface stream flows due to groundwater pumping, including groundwater substitution transfers, has been a long-standing issue of concern in California. Part of the concern involves whether the streamflow depletion factors being used pursuant to groundwater substitution transfers are stringent enough to protect against long-term negative impacts to surface water flows.

Because real-time streamflow depletion due to groundwater pumping cannot be directly measured, DWR and Reclamation have estimated impacts on streamflow due to groundwater pumping by using analytical and numerical groundwater models. DWR and Reclamation utilized results from modeling efforts conducted for Reclamation's Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report dated March 2015 to establish its estimated minimum 13 percent average streamflow depletion factor for single year transfers requiring the use of SWP or CVP facilities.

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

DWR and Reclamation have indicated that to address continued concerns related to streamflow depletion, they have initiated development of a new modeling tool to more accurately estimate an appropriate streamflow depletion factor for individual transfer proposals. In addition, DWR and Reclamation have developed a Sacramento Valley Stream Flow Depletion Factor Management Group, composed of key stakeholders in the Sacramento Valley and the areas south and west of the Delta, to provide management and technical guidance to the groundwater modeling improvements being undertaken by DWR, Reclamation, and the State Water Contractors. DWR and Reclamation anticipate on-going refinement of groundwater substitution transfer modeling will allow them to more accurately evaluate potential long and short term surface water depletion impacts from individual transfers and be able to condition future transfers as necessary to protect against those impacts.

1.3 Crop Idling

Cropland idling includes the idling of land that would have been planted during the transfer period in the absence of the transfer. Cropland idling water transfers make water available by reducing the consumptive use of surface water applied for irrigation. The Draft Technical Information includes specific requirements that each transfer proposal must contain sufficient information to support the claimed reductions in consumptive use of applied surface water upon which the transfer is based.

Crop idling transfers must document historic cropping patterns, identify the crop types, provide records of historic diversions, show the land tracts irrigated and provide any other specific information needed to document the amount of water available for transfer resulting from crop idling. All crop idling transfers are subject to condition(s) setting forth the required documentation requirements, and requiring the Petitioner to obtain DWR or Reclamation concurrence with the evaluation of quantities made available to transfer.

SEWD has submitted a water transfer proposal to DWR and Reclamation providing all necessary information required pursuant to the Draft Technical Information. SEWD has indicated that it will transfer up to 12,893 af of water via crop idling of approximately 3,907 acres of rice land. SEWD has indicated that it will compute the volume of surface water made available for transfer using an ETAW value of 3.3 af per acre of rice land participating in the idling program.

SEWD has also indicated that its crop idling program incorporates relevant conservation measures that minimize impacts on threatened species, including the Giant Garter Snake, under both the federal Endangered Species Act and California Endangered Species Act. Also, the quantity of surface water proposed to be made available by SEWD will not exceed 20 percent of the water that would have been applied in the absence of the proposed water transfer; therefore there is no need to conduct a public hearing pursuant to Water Code Section 1745.05(b).

2.0 BACKGROUND

2.1 Substance of SEWD's License 9063

License 9063 authorizes the direct diversion of up to 234 cubic feet per second (cfs) from the Feather River tributary to the Sacramento River between about April 1 to about October 31 of each year for irrigation purposes. The authorized points of diversion for License 9063 are located on the Feather River within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 9, T16N, R3E, MDB&M, and within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 32, T19N, R3E, MDB&M. The authorized place of use consists of 23,240 acres within the boundaries of SEWD including portions of Townships 13, 14, 15, and 16N, and Ranges 2 and 3E, MDB&M, as shown on a map filed with the State Water Board.

2.2 Proposed Temporary Changes

In order to facilitate the transfer, the following will be added to License 9063: 1) Banks Pumping Plant via the Clifton Court Forebay as a point of diversion, located within the NW¼ of SE¼ of Projected Section 20, T1S, R4E, MDB&M as a point of diversion; 2) San Luis Reservoir as a point of redirection, located within the SW¼ of SE¼ of Projected Section 15, T10S, R8E, MDB&M; 3) a portion of the service area of the SWP (as shown on Map 1878 – 2, 3, and 4 on file with the Division under Application 5630); and 4) municipal, industrial, and domestic purposes of use.

3.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

On March 16, 2016, public notice of the petition for temporary change was provided by posting on the Division's website and via the State Water Board's electronic notification system. In addition, on March 21, 2016, the Petitioner noticed the project via publication in the Appeal-Democrat newspaper and on March 18, 2016 mailed the notice via first class mail to interested parties. A comment was timely received from Reclamation.

3.1 Comments of Reclamation

By letter dated March 31, 2016, Reclamation commented on the proposed transfer. In order to protect its water rights, Reclamation requested that the transfer be conditioned as follows:

- Only wells approved by Reclamation and DWR for suitability and acceptability may be used for groundwater substitution.
- The amount of transferable water credited to SEWD's groundwater substitution water transfer operation is subject to the determination of Reclamation and DWR.
- Before commencing the groundwater substitution operation, Petitioner shall submit a Monitoring Program Plan and Mitigation Program Plan to DWR and Reclamation for evaluation and prior approval.
- The amount of water transferred pursuant to this Order shall not exceed the stream flow depletion factor of 13% as set forth in the Draft Technical Information.
- Only idled fields approved by DWR for suitability and acceptability may be used for crop idling.
- The amount of transferable water credited to SEWD's crop idling water transfer operation is subject to determination of Reclamation and DWR.
- Transferable water may be credited only during balanced conditions in the Sacramento-San Joaquin River Delta.

Reclamation also questioned SEWD's discussion of whether the proposed transfer could continue in the event the State Water Board issues a Notice of Potential Curtailment in 2016 for the Feather and Sacramento Rivers. Reclamation indicated that only transfers from previously stored water could occur under curtailments that would impact the SEWD's License 9063.

State Water Board Response:

In order to avoid injury to Reclamation's and DWR's water rights, the transfer is conditioned that SEWD's groundwater substitution and crop idling proposals are subject to the evaluation and approval by Reclamation and DWR, consistent with the approval criteria of the Draft Technical Information. Also, the Order will require a condition indicating that the transfer must cease should the State Water Board issue notification that water is unavailable for Feather River diversions that would apply to SEWD's License 9063.

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

In addition to any obligation the State Water Board may have under CEQA, the Board 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 may approve a temporary change due to a transfer of water only if it determines that the proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) The independent evaluation of impacts to public trust resources was conducted concurrent with the Water Code section 1727 evaluation.

5.0 REQUIRED FINDINGS OF FACT

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

Before approving a temporary change due to a transfer or exchange of water 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.” The water proposed for transfer consists of up to 4,540 af (less a streamflow depletion loss) of surface water made available through increased groundwater pumping, and up to 12,893 af of surface water made available through crop idling.

To the extent that the additional groundwater pumped does not affect streamflow, this water represents water which would not be available for use in the downstream water supply. DWR and Reclamation have reviewed the proposed groundwater pumping proposal and determined that 13 percent of the additional groundwater pumping will affect streamflow. This Order limits the amount of water available for transfer to 87 percent of the groundwater pumped.

In the absence of the proposed transfer, an additional approximate 3,907 acres of rice land within SEWD’s service area would be planted similar to SEWD historical rice cropping patterns. The portion of the transfer total made available through this idling is calculated using the appropriate ETAW value of 3.3 af per acre of rice land participating in the idling program in conformance with the Draft Technical Information.

In light of the above, I find in accordance with Water Code Section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would have been consumptively used or stored in the absence of the proposed temporary change.

5.2 No Injury to Other Legal Users of the Water

Before approving a temporary change due to a transfer or exchange of water, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code, § 1727, subd. (b)(1).) The water proposed for transfer consists of surface water made available through increased groundwater pumping and crop idling. DWR and USBR have reviewed the proposed transfer and determined that, with the inclusion of the 13 percent depletion factor, as well as their oversight of the groundwater substitution operations described in Section 1.2 of this Order, the SWP and CVP will not be injured from the additional groundwater pumping associated with the transfer. The groundwater substitution conveyance agreement described in Section 1.2 of this Order includes mitigation and monitoring plans to address the impacts of additional pumping for this transfer. This Order requires compliance with these plans.

In general, the transfer of water that would otherwise be consumptively used will not result in injury to other legal users of water. In the absence of the proposed transfer, an additional approximate 3,907 acres within SEWD's service area would be planted similar to historical cropping patterns. The portion of the transfer total made available through this idling is calculated using the appropriate ETAW of 3.3 af per acre of rice land. The crop idling conveyance agreement described in Section 1.3 of this Order includes descriptions of the affected fields, the ETAW factors used to calculate consumptive use savings, and monitoring and verification procedures for the proposed crop idling program. This Order requires compliance with these portions of the conveyance agreement.

Section 1745.10 subdivision (a) requires that groundwater substitution transfers be (a) consistent with a groundwater management plan adopted pursuant to state law for the affected area or (b) approved by the water supplier from whose service area the water is to be transferred and that water supplier, if a groundwater management plan has not been adopted, determines that the transfer will not create, or contribute to, conditions of long-term overdraft in the affected groundwater basin. As indicated in section 1.2 of this Order, Sutter County has completed and adopted a GMP, and the GMP identifies that DWR does not currently consider any of the groundwater sub-basins underlying Sutter County to be in an overdraft state.

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

5.3 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 California Department of Fish Wildlife (CDFW) and the Central Valley Regional Water Quality Control Board (Regional Board) with a copy of the petition in accordance with California Code of Regulations, title 23, section 794, subdivision (c). CDFW and the Regional Board did not provide any comments regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

In general, North of Delta transfers result in an incremental increase in instream flows between the Petitioner's point of diversion and the location where the water is removed from the stream system. The increase in flows is not anticipated to be harmful to instream resources, provided that the transfer water does not cause instream temperatures to increase to harmful levels and also does not result in false fish attraction flows to streams not suited for fish rearing. No information is available that suggests the transfer flows will contribute to false fish attraction flows or significantly change stream temperatures. The transfer will be subject to Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the federal Endangered Species Act.

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

6.0 GOVERNOR'S PROCLAMATIONS OF A DROUGHT STATE OF EMERGENCY

This Order is consistent with the January 17, 2014 Proclamation of a Drought State of Emergency (Proclamation) issued by Governor Edmund G. Brown Jr. and the Governor's Executive Order B-21-13 (Executive Order) issued on May 20, 2013 for the purpose of streamlining approval for water transfers to address the dry conditions and water delivery limitations to protect California's agriculture. The State Water Board and DWR are directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California. This Order is also consistent with the April 25, 2014, Proclamation of a Continued State of Emergency (April Proclamation) directing the State Water Board to immediately and expeditiously process requests to move water to areas of need, including requests involving voluntary water transfers.

On December 22, 2014, Governor Brown issued Executive Order B-28-14 which extended the waiver of Water Code Section 13247 in paragraph 9 of the January 2014 Proclamation, and paragraph 19 of the April 2014 Proclamation, through May 31, 2016.

On April 1, 2015, the Governor issued Executive Order B-29-15 to save water, increase enforcement of water laws, streamline government response to the drought, and invest in new water. It references that the orders and provisions of the January and April 2014 Proclamations are still in effect, unless otherwise modified. The provisions of the January and April 2014 Proclamations relating to streamlining approval of water transfers are still in effect.

7.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2012-0029.

8.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I find as follows:

I conclude that, based on the available evidence:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of the water.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.
4. Any increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) will be performed in compliance with Water Code section 1745.10.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change for the transfer of up to 17,433 af of water under License 9063 is approved.

All existing terms and conditions of License 9063 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 for one year.
2. The transfer under License 9063 is limited to a total of 17,433 af (up to 4,540 af prior to subtracting streamflow depletion loss by groundwater substitution, and up to 12,893 af by crop idling).
3. Municipal, industrial, and domestic uses are temporarily added as purposes of use under License 9063.
4. Petitioner shall comply with all provisions contained in the crop idling and groundwater substitution agreements pursuant to the Draft Technical Information, between DWR, Reclamation, and SEWD as a condition of transferring water pursuant to this Order.

5. The portion of the transfer total to be made available by groundwater substitution is 4,540 af. For the groundwater substitution portion of the transfer, the Petitioner shall reduce its diversion rate at the original points of diversion authorized under License 9063 by an amount equal to the rate of additional groundwater pumped in order to make water available for transfer pursuant to this Order (both measured as a daily average). The amount of water transferred pursuant to this Order shall not exceed 87 percent of the rate of additional groundwater pumping.
6. The place of use under License 9063 is temporarily expanded to include a portion of the service area of the SWP (as shown on Map 1878 – 2, 3, and 4 on file with the Division under Application 5630).
7. The following point of diversion is temporarily added to License 9063:

Banks Pumping Plant via the Clifton Court Forebay located as follows: California Coordinate System, Zone 3, NAD 83, North 2,126,440 feet and East 6,256,425 feet, being within the NW¼ of SE¼ of Projected Section 20, T1S, R4E, MDB&M.

8. The following point of rediversion is temporarily added to License 9063:

San Luis Reservoir located as follows: California Coordinate System, Zone 3, NAD 83, North 1,845,103 feet and East 6,393,569 feet, being within the SW¼ of SE¼ of Projected Section 15, T10S, R8E, MDB&M.

9. Diversion of water at Banks Pumping Plant is subject to compliance by the operators with the objectives currently required of DWR set forth in Tables 1, 2, and 3 on pages 181-187 of Revised Water Right Decision 1641 (D-1641), or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at that point of diversion, including compliance with the various plans required under D-1641. Diversion of water is also subject to compliance by DWR with all applicable Biological Opinions and court Orders and any other conditions imposed by other regulatory agencies applicable to these operations.

Diversion of water at Banks Pumping Plant is also subject to compliance with any State Water Board Orders establishing temporary or interim operating conditions during the transfer period, except if the State Water Board has specifically exempted conveyance of transfer water from the Order.

10. During the period of transfer, Petitioner shall comply with applicable terms and conditions imposed by other regulatory agencies. This Order shall not be construed as authorizing the violation of any agreement entered into by the Petitioner.
11. If at any time prior to, or during the period of the transfer, the State Water Board issues notification that water is unavailable for diversion pursuant to License 9063, the transfer shall immediately cease. No transfer credit shall accrue for land fallowing or groundwater substitution during a period of water unavailability.
12. Within 90 days of the completion of the transfer, SEWD shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information.
 - a. General locations where the transferred water was used;
 - b. The daily average rate water is made available for transfer pursuant to this Order;
 - c. The daily average diversion rate for water diverted pursuant to License 9063 during the transfer period;
 - d. The average daily streamflow measured at the nearest representative gaging station on the Feather River;
 - e. The daily average pumping rate of groundwater pumped by SEWD in excess of that which would have been pumped in the absence of this transfer;
 - f. Groundwater elevations within the vicinity of the SEWD prior to the proposed transfer; and

- g. A report of the crop idling within SEWD, including locations of affected fields, and frequency of field verification.

SEWD shall also develop and submit to the Deputy Director for Water Rights, by July 1 of each year following 2016, a map defining the groundwater elevations within the vicinity of SEWD, until such time as these elevations correspond to pre-transfer levels.

13. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this temporary change Order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

14. This Order does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (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 temporary transfer, the Petitioner shall obtain authorization for an incidental take permit prior to construction or operation. The Petitioner shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.
15. The State Water Board reserves jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: APR 25 2016