

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

DIVISION OF WATER RIGHTS

In the Matter of Specified License and Permits¹ of

THE STATE WATER PROJECT AND THE CENTRAL VALLEY PROJECT

**ORDER APPROVING A PETITION FOR TEMPORARY CHANGE IN THE PLACE OF USE
OF LICENSE AND PERMITS OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES
AND UNITED STATES BUREAU OF RECLAMATION**

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 INTRODUCTION

On April 23, 2018, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (hereinafter jointly referred to as Petitioners) 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. An amended supplement to the petition was submitted on May 25, 2018². With the petition, DWR requests a one-year modification of Permit 16479 and Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, to temporarily change the authorized place of use of: (1) the DWR permit to include the Central Valley Project (CVP) authorized place of use downstream³ of Jones Pumping Plant (Jones); and (2) the Reclamation license and permits to include the State Water Project (SWP) authorized place of use downstream of Harvey O. Banks Pumping Plant (Banks). The maximum total transfer quantity requested is up to 434,300 acre-feet (af).

The changes requested will temporarily consolidate the authorized places of use of the SWP and CVP (hereinafter jointly referred to as the Projects). DWR and Reclamation indicate that the changes will more effectively and efficiently utilize the operational flexibility of the combined Projects to supply water south of Banks and Jones (Delta Pumps). The Petitioners state that the requested changes will facilitate the delivery of available Project supplies south of the Sacramento-San Joaquin Delta (Delta) and maximize the beneficial use of available supplies. The Petitioners indicate approval of the petition will not increase the quantity or alter the timing of diversions from the Delta or San Joaquin River. The temporary changes become effective upon issuance of the Order and remain in effect for one year from the date of approval. The total transfer quantity consists of many transfers/exchanges detailed in Section 3.3 below.

¹ The petition was filed for Permit 16479 (Application 14443) of the Department of Water Resources' State Water Project and License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 (Applications 23, 234, 1465, 5626, 5628, 5638, 9363, 9364, 9368, 13370, 13371, 15374, 15375, 15764, 16767, 17374 and 17376, respectively) of the United States Bureau of Reclamation's Central Valley Project.

² The amended petition revised the Byron Bethany Irrigation District-Musco Olive exchange from 450 af to 570 af and the Arvin Edison Water Storage District-Metropolitan Water District exchange from 150,000 af to 149,880 af.

³ The Petitioners use the term "downstream" to identify that portion of the SWP and CVP that is served by water diverted from the Jones and Banks Pumping Plants. These areas are served via a system of canals and holding reservoirs that is within the petitioners' control. These areas are not within the downstream water supply as defined in Water Code section 1725.

The SWP and CVP license and permits subject to the proposed changes are listed in the table below.

SWP and CVP License and Permits Subject to Temporary Change

SWP Water Rights		
Application Number	License (L) or Permit (P) Number	Description
14443	P16479	Oroville Project
CVP Water Rights		
23	L1986	Friant Project
234	P11885	Friant Project
1465	P11886	Friant Project
5626	P12721	Shasta Project
5628	P11967	Trinity Project
5638	P11887	Friant Project
9363	P12722	Shasta Project
9364	P12723	Shasta Project
9368	P12727	Jones Pumping Plant
13370	P11315	Folsom Project
13371	P11316	Folsom Project
15374	P11968	Trinity Project
15375	P11969	Trinity Project
15764	P12860	San Luis Reservoir
16767	P11971	Trinity Project
17374	P11973	Trinity Project
17376	P12364	Whiskeytown Lake

On June 8, 2017, the State Water Board approved a similar petition filed by the same Petitioners to transfer/exchange up to 360,232 af of water to primarily the same buyers. As of May 31, 2018, 44,442 af of water have been transferred/exchanged.

2.0 EXTENDED DROUGHT CONDITIONS SOUTH OF DELTA

2.1 California's Continued Drought Recovery

California has endured a severe multi-year drought. Despite improved 2016-2017 winter precipitation in some parts of the state, precipitation improvements have not continued into early 2018 and most of the state has experienced significantly below normal snowpack accumulation. The effects of the drought still persist in areas of the Central Valley, and some parts of Southern California. On April 7, 2017, the Governor issued an Executive Order B-40-17 that declared the end of the Drought State of Emergency for all counties throughout California except the counties of Fresno, Kings, Tulare, and Tuolumne. This transfer petition includes transactions in Fresno, Kings and Tulare counties that are still in a declared Drought State of Emergency.

2.2 SWP and CVP Operations Supply

California has experienced improved water supply conditions following five consecutive years of drought. Although hydrologic conditions in 2017 improved over the previous years, this trend did not continue into early 2018. The U.S. Drought Monitor updated on May 10, 2018 continued to classify approximately

17 percent of the state is in Extreme and Severe Conditions, mainly in Southern California. However, due to late spring storms, SWP and CVP allocations have improved. At the time of petition submittal, the allocation to SWP contractors was 20 percent of their requested Table A amounts. On April 24, 2018, DWR announced an increase in the allocation to SWP contractors to 30 percent of their requested Table A amounts. On May 21, 2018, DWR announced an increase in the allocation to SWP contractors to 35 percent of their requested Table A amounts. On February 20, 2018, Reclamation announced a 20 percent allocation for agricultural contractors and municipal and industrial contractors south-of-Delta. On April 20, 2018, this allocation amount was increased to 40 percent. On May 25, 2018, Reclamation announced an increase in the allocations to agricultural contractors to 45 percent. Municipal and industrial water service contractors south-of-Delta were allocated the greater of 75 percent of their historic use or public health and safety needs, with conditions on San Luis Reservoir operations.

The proposed changes in place of use will not result in diversion of additional water from the Delta, a change in timing of SWP or CVP diversions, or the delivery of more Project water than has been delivered historically. Instead, the requested change will provide the operational flexibility the Projects need to obtain and make the most efficient use of available supplies, and aid in continued drought recovery.

3.0 SUBSTANCE OF TEMPORARY CHANGE PETITION

3.1 Existing Place of Use of DWR and Reclamation Water Rights

The service area of the SWP is shown on maps 1878-1, 1878-2, 1878-3, and 1878-4 (on file under Application 5629) and the service area of the CVP is shown on map 214-208-12581 (on file under Application 5626).

3.2 Place of Use under the Proposed Temporary Change Petition

In order to consolidate the SWP and CVP authorized places of use, the Petitioners have requested: 1) the temporary addition of the CVP service area downstream of Jones to the place of use under DWR's Permit 16479; and 2) the temporary addition of the SWP service area downstream of Banks to Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364. These temporary additions would be for the purpose of completing the transfers/exchanges described below, and would be effective for one year following the date the petition is approved. The areas to be added to the SWP are shown on Map 214-202-83, and the areas to be added to the CVP are shown on Map 214-202-84 submitted with the petition.

3.3 Transfers/Exchanges Proposed

The petition includes the following transfers/exchanges:

a. Santa Clara Valley Water District

Santa Clara Valley Water District (SCVWD) contracts for a water supply from both the SWP and CVP. The SWP water is delivered through the South Bay Aqueduct (SBA) and the CVP water is delivered from San Luis Reservoir through the San Felipe Division. In 2018 and 2019, there are several operational and maintenance issues that may require the delivery of the SCVWD's CVP or SWP supplies through an exchange. Also in 2018 and 2019, SCVWD may need to recover previously stored CVP water from Semitropic Water Storage District (SWSD) by exchange. Up to 100,000 af of the SCVWD's CVP, SWP, and/or previously stored CVP supplies may require delivery through these alternative conveyance approaches. The need for this flexibility is described in more detail below:

- Based on historic operating conditions, total storage in San Luis Reservoir may drop to levels that result in operational and/or water quality problems. When this occurs, SCVWD's pumping capacity through the CVP San Felipe Division can be limited, potentially impacting the ability to meet SCVWD demands. In addition, low water levels can result in reduced water quality causing water treatment problems that could result in severe reductions in the quantity of CVP water conveyed through the CVP San Felipe Division, as well as increased water treatment costs. SCVWD would be significantly more reliant on deliveries through the South Bay Aqueduct to meet demands during times when SCVWD's CVP deliveries through the San Felipe Division facilities are reduced or eliminated,
- The San Felipe Division's infrastructure is aging, which has resulted in several planned and unplanned facility shutdowns for maintenance and repair over the last several years. In 2018 and 2019, SCVWD has also identified the following planned activities that will limit its ability to receive water through the San Felipe Division and therefore, may require delivery of SCVWD's CVP water through an exchange with SWP: 1) work on SCVWD- maintained facilities, including shutdown of the Santa Clara Tunnel and Pacheco Conduit resulting from corrective actions identified in the inspection performed in 2017 and early 2018; and 2) work on the Cross Valley Pipeline from October 2018 through December 2018, at which time CVP deliveries will cease.
- The SBA has experienced several unplanned outages over the last several years due to aging infrastructure, during which time SCVWD has been almost completely reliant on CVP deliveries to meet treatment plant demands. Possible shutdowns on the SBA, as well as within SCVWD's service area, may prevent deliveries of SWP water through the SBA.
- SCVWD has previously banked CVP water in the Semitropic groundwater bank. Recovery of the stored CVP water must be accomplished by exchange. In order to return the previously stored CVP water to SCVWD, Semitropic will either pump the stored water into the California Aqueduct through Semitropic's turn-in facilities and deliver that water to DWR for use within the SWP service area south of Semitropic, or use SCVWD's previously stored water within Semitropic's service area. In exchange, an equal amount of SWP water would be delivered to SCVWD through either the SBA and/or the CVP San Felipe Division.
- SCVWD may need to move its SWP water through the CVP San Felipe Division by exchange in order to balance its operations if there is insufficient CVP water moving through the CVP San Felipe Division. Reclamation and DWR are requesting an exchange of CVP and SWP water to allow the delivery of SCVWD's SWP water through an exchange with CVP water. SWP water would be pumped at Banks and delivered to the CVP at O'Neill Forebay for use within the CVP service area south of O'Neill Forebay. In exchange, an equal amount of CVP water would be pumped at Jones and delivered to SCVWD through the CVP San Felipe Division. The proposed exchange would not increase the total amount of CVP or SWP water allocated to SCVWD by DWR or Reclamation.
- Due to the low SWP allocation in 2018, and for the reasons discussed above, SCVWD may also need to move its CVP water through the SBA by exchange in order to balance its operations if there is insufficient SWP water moving through the SBA. Thus, Reclamation and DWR are requesting approval to exchange CVP and SWP water to allow SCVWD's CVP water to be pumped at Jones and delivered to DWR at O'Neill Forebay for use within the SWP service area south of O'Neill Forebay, and in exchange, an equal amount of SWP water would be pumped at Banks and delivered through SBA. The proposed exchange would not increase the total amount of CVP or SWP water allocated to SCVWD by DWR or Reclamation.

The added flexibility provided by the proposed exchanges will allow SCVWD to manage operational and maintenance uncertainties on both the CVP San Felipe Division and the SBA, and allow SCVWD to recover previously stored CVP water from the Semitropic groundwater bank by exchange. Approval of the petition will allow the continued delivery of water to SCVWD and provide operational flexibility, thus minimizing negative impacts to the economy of the SCVWD service area, water levels within the region's groundwater basin, and local environmental resources.

b. Oak Flat Water District/Del Puerto Water District Exchange

Oak Flat Water District (OFWD), a SWP contractor, and Del Puerto Water District (DPWD), a CVP contractor, are adjacent districts located north of San Luis Reservoir in San Joaquin, Stanislaus, and Merced Counties. The districts share common landowners. Landowners with water supplies from both projects have requested the ability to optimize the application of available supplies on their combined properties.

The proposed exchange would allow the delivery of up to 1,000 af of the landowners' CVP supplies through SWP turnouts on the California Aqueduct to lands within OFWD and/or delivery of the landowner's SWP supplies through CVP turnouts on the Delta-Mendota Canal to lands within DPWD. The proposed exchange would result in no increase in total SWP or CVP allocations to either district.

In addition to the exchange above, OFWD and DPWD propose an even exchange with SWP and CVP water to allow the delivery of up to 2,000 af of DPWD's CVP water. A portion of the lands within DPWD adjacent to OFWD are more efficiently served from OFWD's turnouts on the California Aqueduct. DPWD proposes to deliver a portion of its CVP supply to the lands adjacent to OFWD through an even exchange with SWP water. Up to 2,000 af of SWP water will be delivered through the OFWD turnouts on the California Aqueduct to DPWD. An equal amount of CVP water will be delivered to DWR at O'Neill Forebay. The exchange will not result in any increase in pumping from the Delta by either the SWP or CVP. There will be no increase in total deliveries to DPWD.

c. Kern County Water Agency

Kern County Water Agency-Kern Tulare Water District: Cross Valley Canal

Kern County Water Agency (KCWA) is a SWP contractor with numerous member units within Kern County. Kern Tulare Water District (KTWD) is a CVP contractor located in Kern County with a contract for CVP water through the Cross Valley Canal (CVC). Due to limited capacity at Jones, conveyance of CVP-CVC water through SWP facilities is often required to complete deliveries to the CVC contractors. DWR and Reclamation have an agreement to pump CVC water at Banks for delivery to the CVC when operational capacity is available. As a result of projected hydraulic conditions and anticipated operations restrictions, it is possible there will be no ability to move CVC water through Jones or Banks until fall 2018. In order to assist KTWD in meeting peak irrigation demands this summer, KCWA is willing to provide up to 50,000 af of its SWP water to KTWD through the summer months. In exchange, KTWD is willing to provide an equivalent amount of CVP-CVC water to KCWA in the fall for delivery to KCWA member units. KTWD is within the SWP place of use; however, several of the KCWA member units that would receive CVP water are outside the CVP place of use. The exchange will not result in an increase in allocations to either district.

Kern County Water Agency-Kern Tulare Water District Exchange: Banked CVP

KTWD proposes to deliver up to 9,000 af of previously banked CVP water in the Rosedale-Rio Bravo Water Storage District to KCWA Improvement District Number 4 (ID4) in exchange for up to 9,000 af of SWP allocations carried over in San Luis Reservoir from 2017 to 2018 SWP allocations. The SWP allocation will be delivered to KTWD for in-district use. KTWD is within the SWP place of use; however, several of the KCWA member units to receive CVP water are outside the CVP place of use. The exchange will not result in any increase in allocations to either district.

Kern County Water Agency-Westlands Water District Exchange: Banked CVP

KCWA proposes to deliver up to 13,000 af of its SWP water to lands within Westlands Water District (Westlands) to facilitate the delivery of previously stored CVP water in Semitropic. Two landowners, Poso Creek LLC and Harris Farms Ins., have agricultural operations in both KCWA and WWD and have both a SWP and CVP contract supply. The landowners have banked CVP water in Semitropic. The landowners plan to recover up to 13,000 af of SWP water to WWD turnouts on the joint use facilities. An equivalent amount of the landowner's water stored in Semitropic will be transferred to KCWA. The exchange will not result in an increase in allocations to either district.

Kern County Water Agency-Pixley Irrigation District and Homer, LLC: CVC

KCWA proposes to deliver up to 10,000 af of CVP CVC Exchange Contractor water to lands within KCWA but outside of the CVP place of use. Sun World International (SWI) has agricultural operations within KCWA and may acquire up to 8,000 af of CVP CVC Exchange Contractors water from Pixley Irrigation District (PID) in exchange for a like amount of Friant Class 1 water supplies SWI will acquire from Tulare Irrigation District (TID) and potentially other districts. In addition, Homer, LLC (Homer) has agricultural operations with KCWA and may acquire up to 2,000 af of CVP CVC Exchange Contractor water from Lower Tule River ID (LTRID) in exchange for a like amount of Tule River supplies or Friant Class 1 supplies it will acquire from other districts. TID's and LTRID's CVP CVC Exchange Contractor water may be delivered to existing farms with Berrenda Mesa Water District, which is within KCWA but outside of the CVP place of use. The exchange will not result in an increase in allocations to either district.

Within Kern County Water Agency: SWP-CVP

KCWA proposes to deliver up to 20,000 af of CVP Delta, San Luis Reservoir, or Friant surface supplies (CVP water supplies) to lands within KCWA but outside of the CVP place of use to facilitate a one-for-one exchange program between Arvin-Edison Water Storage District (AEWSD) and Westside Mutual Water Company (WMWC). WMWC receives SWP water supplies from Belridge Water Storage District (BWSD), Berrenda Mesa Water District (BMWD), and Lost Hills Water District (LHWD). As part of the exchange program, AEWSD will deliver its CVP water supplies to BWSD, BMWD, and LHWD on behalf of WMWC, within KCWA but outside of the CVP place of use. In exchange, an equivalent amount of BWSD, BMWD, and LHWD's SWP water will be delivered to AEWSD within the SWP place of use. The exchange will not result in an increase in allocations to any district.

Kern County Water Agency-Rosedale-Rio Bravo Water Storage District Groundwater Bank

KCWA proposes to deliver up to 10,000 af of its CVP Friant water to lands outside of the CVP place of use, but inside the SWP place of use that covers the service areas of Castaic Lake Water Agency (Castaic), Coachella Valley Water District (Coachella), and Metropolitan Water District of Southern California (MWDSC) on behalf of its member agency Irvine Ranch Water District (Irvine), to facilitate the delivery of previously stored SWP and Kern River water in Rosedale-Rio Bravo Water Storage District (Rosedale). Castaic has banked SWP and Kern River water supplies in

Rosedale's groundwater bank and plans to recover up to 3,000 af of their previously stored SWP and Kern River water. Coachella has banked Kern River water supplies in Rosedale and plans to recover up to 5,000 af of their previously stored Kern River water. Irvine has banked SWP and Kern River water supplies in Rosedale and plans to recover up to 2,000 af of their previously stored SWP and Kern River water. Delivery of the SWP and Kern River water currently stored in Rosedale will be accomplished through exchange. KCWA will deliver up to 10,000 af of the CVP Friant water to Castaic's, Coachella's, and Irvine's California Aqueduct turnouts. An equivalent amount of Castaic's, Coachella's, and Irvine's water stored in Rosedale's groundwater bank will be transferred to Rosedale.

d. Arvin-Edison Water Storage District/Metropolitan Water District Program

Groundwater Banking:

MWDSC stores a portion of its SWP supply in the Arvin-Edison Water Storage District (AEWSD, a CVP contractor) groundwater banking facilities depending on annual allocations. When requested, AEWSD is obligated to return previously banked SWP water to MWDSC. In the absence of this proposed exchange, previously banked SWP water can only be recovered from AEWSD banking facilities through groundwater extraction. The expansion of the CVP place of use will allow AEWSD the option and flexibility to return MWDSC's banked water through an exchange of its available surface water supplies, including CVP Delta, San Luis Reservoir, or Friant surface supplies (CVP water supplies). The exchange will allow AEWSD greater flexibility in the scheduling and use of its CVP water supplies, as well as a reduction in energy and costs associated with the groundwater extraction. The ability for AEWSD to return surface water through exchange would enhance the operational flexibility, water quality, and timing of water returned to MWDSC. CVP water supplied to MWDSC by AEWSD in lieu of extraction to recover previously stored SWP water will result in a balanced exchange or one-for-one reduction of MWDSC's groundwater banking account with AEWSD. The exchange will occur only to the extent MWDSC has a positive water bank balance. Upon return of water to MWDSC, an equivalent amount of MWDSC's previously banked SWP water residing in AEWSD's water banking facilities would transfer to AEWSD.

Regulation Program:

Additionally, the requested change to a consolidated place of use would allow AEWSD to deliver its CVP water supplies to MWDSC first and receive SWP water supplies in exchange at a later time. This program better facilitates the use of AEWSD's CVP water supplies that have a limited opportunity for use under current CVP operations. AEWSD is interested in utilizing MWDSC's ability to take delivery of and use or store AEWSD's CVP water supplies and return SWP water supplies to AEWSD at a future time in order to enhance AEWSD's ability to match supply to grower demands. The ability to regulate water in this manner reduces the need to directly recharge and subsequently extract supplemental groundwater. This exchange mechanism would also be on a balanced exchange or one-for-one basis.

Spill Prevention Program:

In the event that hydrologic conditions are such that AEWSD believes that there may be limited availability to carry over 2018 CVP water supplies in CVP reservoirs, AEWSD's CVP water supplies would be delivered to MWDSC to reduce risk of spill and subsequent potential loss of water supplies. The CVP water will be delivered to MWDSC by exchange in San Luis Reservoir or directly into the California Aqueduct via the Friant Kern Canal and AEWSD or CVC facilities. MWDSC is willing to provide water management services to assist in regulating the available contract supplies.

MWDSC would receive AEWS's CVP water prior to spill and, at a later time, return a lesser amount (return 2 af for every 3 af regulated) to AEWS. The unbalanced nature of the exchange reflects the compensation to MWDSC for their water management services, which will protect the water from spilling. In the absence of the exchange with MWDSC, AEWS would attempt to avoid spilling the water by delivering the available CVP contract supplies to groundwater banking programs within the AEWS service area or other areas that are within the CVP place of use.

The benefits of the above proposed exchanges provide, among other things, offsets to the impacts to AEWS of the San Joaquin River Restoration Program by increasing AEWS's ability to efficiently use water supplies and by increasing the opportunities to complete the return of SJRRP releases to AEWS. In addition, the exchange could result in a reduction in energy and costs associated with groundwater recharge and extraction.

The proposed exchanges would be up to a total of 149,880 af of CVP water supplies for all three programs described above.

CVP Delta supplies will be provided as stated above.

If available, Friant Division CVP water will be provided directly via delivery from the Friant-Kern Canal and AEWS's distribution system, including its connections to the California Aqueduct at Milepost 227 (Reach 14C) or via its capacity in the CVC to the California Aqueduct at Tupman/Milepost 238 (Reach 12E).

e. *Byron Bethany Irrigation District/Musco Olive Products Inc.*

Byron Bethany Irrigation District (BBID) contracts with Reclamation for a water supply from CVP. BBID provides up to 570 af per year, under contract, to Musco Olive Products Inc. (Musco). Musco is not connected to BBID's distribution system. Neither BBID nor Reclamation can physically convey CVP water to Musco, however Musco is located near SWP Reach 2A on the California Aqueduct (north of O'Neill Forebay). The Consolidated Place of Use will allow DWR to deliver up to 570 af of SWP water to Musco for BBID in exchange for an equivalent amount of CVP water delivered by Reclamation to DWR at O'Neill Forebay.

f. *Tulare Lake Basin Water Storage District – Westlands Water District/San Luis Water District/Pleasant Valley Water District*

Westlands, San Luis Water District (San Luis), and Pleasant Valley Water District (Pleasant Valley) could be subject to reduction in CVP deliveries due to uncertainties in hydrologic, regulatory, and operational conditions. Growers within Westlands, San Luis, and Pleasant Valley will execute an agreement with J.G. Boswell Company (Boswell), a local landowner within Tulare Lake Basin Water Storage District (TLBWSD), for the purchase of up to 65,000 acre-feet of Boswell's pre-1914 Kings River water. TLBWSD proposes to facilitate the transfer of its SWP water to Westlands, San Luis, and Pleasant Valley in exchange for up to 65,000 af of Boswell's pre-1914 Kings River water. TLBWSD's SWP water in San Luis Reservoir will be conveyed through the California Aqueduct and delivered to the growers within Westlands, San Luis, and Pleasant Valley that are within the CVP place of use.

g. *Department of Veterans Affairs - San Joaquin Valley National Cemetery*

The Department of Veterans Affairs - San Joaquin Valley National Cemetery (VA Cemetery) contracts with Reclamation for up to 850 af of CVP supply. The VA Cemetery is located near Reach 2B on the California Aqueduct (north of O'Neill Forebay). Reclamation is unable to directly convey CVP water to the VA Cemetery when the use of Joint Point of Diversion (JPOD) operations

authorized under Water Right Decision 1641 (D-1641) or the California Aqueduct-Delta Mendota Canal intertie is not available. The Consolidated Place of Use would allow DWR to deliver up to 850 af of SWP water to the VA Cemetery in exchange for an equivalent amount of CVP water delivered by Reclamation to DWR at O'Neill Forebay.

h. Potential Additional Transfers/Exchanges

The above transfers include all the specific transfers requested as of the date of the petition. However, SWP and CVP contractors will continue to explore other opportunities to retrieve previously stored Project supplies and optimize the delivery (quantity and timing) of their Project supplies from all available sources. The Petitioners anticipate that throughout the year more needs and opportunities for exchanging SWP and CVP water may be developed. The Petitioners request that any Order approving this petition includes the approval of potential future projects that meet certain specific criteria. In order to allow the State Water Board to make the findings required by Water Code Section 1725, the Petitioners have indicated that any project not specifically detailed in the transfers listed above will be conducted in accordance with the following criteria:

1. The transfer or exchange would not result in any increase in the amount of water diverted from the Delta. The water to be exchanged would be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta.
2. The water to be transferred or exchanged would have been consumptively used or stored in the absence of the transfer.
3. The total quantity of water delivered to SWP or CVP contractors as a result of the change will not exceed historic average deliveries.
4. The transfer or exchange will not result in the net loss of San Joaquin River or Sacramento River flow.
5. The transfer or exchange will not result in an increase in saline drainage to the San Joaquin River.
6. Prior to initiating any transfer or exchange not specifically listed above, DWR or Reclamation will provide the State Water Board with a description of the proposed transfer or exchange for review and approval.
7. DWR and Reclamation will develop, in coordination with State Water Board staff, a reporting plan that will account for all water transferred or exchanged under the provisions of any order approving the consolidated place of use. The reporting plan will include the parties to the transfer or exchange, how much water was to be transferred, how the water was made available, and the facilities required to affect the transfer.

4.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

Pursuant to Water Code Section 1725, DWR and Reclamation have applied for temporary changes involving a transfer/exchange of water. The State Water Board shall approve temporary changes involving the transfer/exchange of water under Water Code Section 1725 et seq. if it determines that a preponderance of the evidence shows both of the following:

- a. The proposed changes would not injure any legal user of the water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed changes, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water, or return flows.
- b. The proposed changes would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b).)

In addition, the proposed changes must involve only the amount of water that would have been consumptively used or stored in the absence of the temporary changes. (*Id.*, § 1726, subd.(e).)

Temporary changes pursuant to Water Code Section 1725 may be effective for a period of up to one year from the date of approval. (Wat. Code, § 1728.) “The one-year period does not include any time required for monitoring, reporting, or mitigation before or after the temporary change is carried out.” (*Ibid.*)

The State Water Board also has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The State Water Board considers the evaluation of public trust resources as part of its evaluation of impacts to fish, wildlife, or other instream beneficial uses under Water Code § 1727, subdivision (b)(2).

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

DWR and Reclamation filed the petition for a temporary transfer and change under Water Code Section 1725 et seq. Water Code Section 1729 exempts temporary changes involving a transfer or exchange of water from the requirements of CEQA (Pub. Resources Code, § 21000 et seq.). The State Water Board will file a Notice of Exemption.

6.0 PUBLIC NOTICE AND COMMENTS

On May 3, 2018, a 30-day public notice of the petition for temporary change was provided as follows: 1) via first class mail to interested parties; 2) by posting on the Division’s website; 3) via the State Water Board’s electronic subscription mailing list; and 4) by publication in the Fresno Bee. The Natural Resources Defense Council submitted a timely comment regarding consideration of increased SWP and CVP allocations. Information regarding increased SWP and CVP allocations subsequent to the petition submittal date is discussed in Section 2.2 above.

7.0 REQUIRED FINDINGS OF FACT FOR PROPOSED TRANSFERS/EXCHANGES IN PETITION

The following discussion and findings are applicable to the following transfers/exchanges proposed in the petition: (a) 100,000 af to SCVWD; (b) 3,000 af to OFWD/DPWD; (c) 115,000 af to KCWA-KTWD: CVC, KCWA-KTWD: Banked CVP, KCWA-Westlands, Banked CVP, KCWA-Pixley and Homer: CVC, Within KCWA: SWP-CVP, KCWA-Rosedale; (d) 149,880 af to AEWSD/MWDSC; (e) 570 af to BBID-Musco; (f) 65,000 af to TLBWSD-Westlands/San Luis/Pleasant Valley; and (g) 850 af to the VA Cemetery.

7.1 Transfer Only Involves Water That Would Have Been Consumptively Used or Stored

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer/exchange 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 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.”

According to the petition, the temporary changes proposed will not result in the diversion of additional water from the Delta or the delivery of more water to any individual water supplier or user than has been delivered historically. The transfers/exchanges proposed by the petition, including any potential future transfers/exchanges meeting the criteria outlined above, involve water that is part of the SWP or CVP contractors allocated supplies, was diverted to storage and diverted from the Delta consistent with all applicable regulatory requirements, has been exported from the basin in which it was developed, and would clearly be consumptively used or stored in the absence of the transfers/exchanges.

The requested changes will provide the operational flexibility the Projects need to obtain and make the most efficient use of available supplies. The transfers/exchanges will allow agencies experiencing water supply restrictions to recover previously stored water, or optimize the beneficial use of their existing limited water supplies. The water proposed for transfer/exchange consists of either:

- a) Water stored pursuant to the specified permits of the CVP and SWP; or
- b) Water directly diverted pursuant to the specified license and permits of the CVP and SWP for use outside of the Delta watershed, and thus removed from use in the downstream water supply.

The direct diversion and collection of water to storage under the license and permits held by DWR and Reclamation may be subject to curtailment notices during the term of this transfer order. However, releases of water collected to storage prior to issuance of the curtailment notices are not subject to curtailment.

In light of the above, I find in accordance with Water Code Section 1726, subdivision (e) that the water proposed for transfer/exchange of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 pursuant to this Order would be consumptively used or stored in the absence of the proposed temporary change.

7.2 No Injury to Other Legal Users of the Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the temporary change would not injure any legal user of the water during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, section 1727, subd. (b)(1).)

The changes proposed by DWR and Reclamation will not result in any measurable changes to streamflow, water quality, timing of diversion or use, or return flows. The water to be transferred or exchanged is diverted out of the watershed from which it originates in conformance with the provisions of the respective DWR and Reclamation water right license and permits governing those diversions. There are no other legal users downstream of the points of diversion that would be affected by the transfers/exchanges.

The quantity and timing of diversions from the Delta will not change, however the delivery rates from San Luis Reservoir may be slightly different. The scheduling of the deliveries will be coordinated between DWR and Reclamation so as not to adversely impact any SWP or CVP contractor deliveries. Adequate capacity in the California Aqueduct and in the Delta Mendota Canal is available, and will not be adversely impacted as a result of the transfers/exchanges.

The transfers/exchanges will not result in a measurable change in quantity or quality of return flows. There will be no increase in either SWP or CVP allocations as a result of the proposed transfers/exchanges. There could be some shift in the timing of deliveries of SWP and CVP supplies. Transfers/exchanges similar to those proposed above were conducted in 2009, 2010, 2012, 2013, 2014, 2015, 2016, and 2017, consistent with the provisions of Order WR 2009-0033, Order WR 2010-0032-DWR, and the July 6, 2012; July 1, 2013; March 28, 2014; April 27, 2015; May 17, 2016; and June 8, 2017 State Water Board Orders approving DWR's and Reclamation's petitions for change to consolidate the authorized places of use of the SWP and CVP. No measurable effects on other legal users of water were noted from those transfers/exchanges.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not injure any legal user of the water.

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

Before approving a temporary change in order to facilitate a transfer or exchange of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, section 1727, subd. (b)(2).) In accordance with California Code of Regulations section 794 (c), Petitioners provided California Department of Fish and Wildlife (CDFW) and the applicable Regional Water Quality Control Board (Regional Board) with a copy of the petition. CDFW and the Regional Board did not provide any information regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

There will be no change in the amount of SWP or CVP water diverted at Banks or Jones. Therefore, there will be no change in flow or water quality conditions in the Delta. All water exported at Banks and Jones is pumped consistent with the applicable regulatory restrictions governing SWP and CVP operations.

The transfers/exchanges will not result in a measurable change in quantity or quality of return flows. There will be no increase in either SWP or CVP allocations as a result of the proposed transfers/exchanges. There could be some shift in the timing of deliveries of SWP and CVP allocated supplies south of the Delta; however, this will not significantly affect streamflow.

Transfers/exchanges similar to those proposed above have been implemented in previous years by both DWR and Reclamation. No measurable effects on fish, wildlife or other instream beneficial uses were noted from those transfers/exchanges.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(2) that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not unreasonably affect fish, wildlife, or other instream beneficial uses.

8.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in Section 4.4.2 of Resolution 2012-0029 and the Deputy Director for Water Rights redelegation of authority dated October 19, 2017.

9.0 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 regarding DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, for the following transfers/exchanges proposed in the petition: (a) 100,000 af to SCVWD; (b) 3,000 af to OFWD/DPWD; (c) 115,000 af to KCWA-KTWD: CVC, KCWA-KTWD: Banked CVP, KCWA-Westlands: Banked CVP, KCWA-Pixley and Homer: CVC, Within KCWA: SWP-CVP, KCWA-Rosedale; (d) 149,880 af to AEWSD/MWDSC; (e) 570 af to BBID-Musco; (f) 65,000 af to TLBWSW-Westlands/San Luis/Pleasant Valley; and (g) 850 af to the VA Cemetery.

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.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use, under DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 for transfer of up to 434,300 af of water involving transfers or exchanges outlined below is approved.

All existing terms and conditions of DWR's and Reclamation's subject license and permits remain in effect, except as temporarily amended by the following provisions:

1. The transfers/exchanges of water are limited to the period commencing on the date of this approved Order, and continuing for one year from the date of approval.
2. The place of use under DWR's Permit 16479 is temporarily expanded to include portions of the CVP service area shown on the map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to SWP Authorized Place of Use*, Map 214-202-83.
3. The place of use under Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 is temporarily expanded to include portions of the SWP service area as shown on the map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use*, Map 214-202-84.
4. Water transferred/exchanged pursuant to this Order shall be limited to 434,300 af within the following locations: (a) 100,000 af to SCVWD; (b) 3,000 af to OFWD/DPWD; (c) 115,000 af to KCWA-KTWD: CVC, KCWA-KTWD: Banked CVP, KCWA-Westlands: Banked CVP, KCWA-Pixley and Homer: CVC, Within KCWA: SWP-CVP, KCWA-Rosedale; (d) 149,880 af to AEWSD/MWDSC; (e) 570 af to BBID-Musco; (f) 65,000 af to TLBWSW-Westlands/San Luis/Pleasant Valley; and (g) 850 af to the VA Cemetery. Although the transfer limits water service as noted herein, the one-for-one repayment of exchanged transfer water is not limited to service areas (a) through (g), but may occur within the more general service areas shown on Maps 214-202-83 and 214-202-84.

5. This approval is limited to the transfers/exchanges identified and described in this Order and as specified in Condition 4 and, upon approval, additional south-of-Delta transfers/exchanges that meet the criteria set forth in this Order. This approval does not extend to any transfers/exchanges under DWR's or Reclamation's water rights in excess of the total of 434,300 af authorized under this Order. Criteria for additional transfers/exchanges include: 1) The transfer or exchange would not result in any increase in the amount of water diverted from the Delta; 2) The water to be exchanged would be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta; 3) The water to be exchanged or transferred would have been consumptively used or stored in the absence of the transfer; 4) The total quantity of water delivered to SWP or CVP contractors as a result of the change will not exceed historic average deliveries; 5) The transfer or exchange will not result in the net loss of San Joaquin River or Sacramento River flow; and 6) The transfer or exchange will not result in an increase in saline drainage to the San Joaquin River.

If a south-of-Delta transfer/exchange is not specifically identified and described in this Order, the transfer/exchange may occur only after the Deputy Director of Water Rights determines that the transfer/exchange will be implemented in accordance with the conditions of this Order. Requests should be addressed to the Deputy Director of Water Rights. Petitioners should anticipate a determination on the requests no sooner than 5 full business days after submittal. Requests should be submitted on the form entitled "Petition for Change Involving Water Transfers" available on the Division's website. Petitioners should annotate "Request per Consolidated Place of Use Order" at the top of the form. The request shall include a description of the total amount authorized by this Order, and how the amount authorized of 434,300 af will not be exceeded with the additional transfers/exchanges.

6. If at any time prior to, or during the period of the transfer, the State Water Board issues a notice of water unavailability pursuant to the water rights involved in the transfer/exchange, only water collected to storage prior to issuance of the notice of water unavailability may be transferred.
7. DWR and Reclamation shall not increase their allocation of water to the transfer/exchange parties beyond the quantities authorized by existing contract for purposes of this transfer/exchange.
8. Carriage loss shall be deducted from any water transferred through the Delta and delivered under this Order.
9. Diversion of water at the Delta Pumps is subject to compliance by the operators with the objectives currently required of DWR and Reclamation set forth in Tables 1, 2, and 3 on pages 181-187 of D-1641, or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at those points of diversion/rediversion, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and Reclamation, as amended by the documents cited in Condition 10. Diversion of water is also subject to compliance by DWR and Reclamation with all applicable Biological Opinions (BOs) and court orders and any other conditions imposed by other regulatory agencies applicable to these operations.
10. Diversion of water at the Delta Pumps 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.
11. The transfer period authorized above is further limited to the period allowed pursuant to any applicable BO or Endangered Species Act (ESA) consultations (or informal consultations) related to transfers at the Delta Pumps. Petitioners shall provide documentation of the diversion period allowed pursuant to the BOs or consultations prior to transfer of water. Such documentation may include an electronic link to any transfer BOs or ESA consultations, informal ESA consultations, opinions, or other documents issued by CDFW, National Marine Fisheries Service, or U.S. Fish and Wildlife Service.

12. By the 20th day of each month following approval of this Order, the Petitioners shall electronically submit a monthly report detailing the amounts transferred or exchanged in the previous month. All water transferred/exchanged shall also be documented and accounted for by each purpose of use. The report shall document, listed by specific transfer/exchange, the dates of the transfers/exchanges that have occurred, the transaction method (transfer or exchange), the amount transferred/exchanged between each project (CVP or SWP), gains or losses in groundwater banks, how much remains in each authorized transaction, and how much remains of the total authorized amount.
13. Within 90 days of the completion of the transfer, the Petitioners 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. The monthly and total amounts of transfer water delivered to SCVWD; OFWD/DPWD; KCWA-KTWD: CVC, KCWA-KTWD: Banked CVP, KCWA-Westlands: Banked CVP, KCWA-Pixley and Homer: CVC, Within KCWA: SWP-CVP; KCWA-Rosedale; AEWSD/MWDSC; BBID-Musco; TLBWSD-Westlands/San Luis/Pleasant Valley; the VA Cemetery; and any entities receiving transfer water in accordance with Condition 5.
 - b. The monthly and total amounts of Delta and delivered water to SCVWD; OFWD/DPWD; KCWA-KTWD: CVC, KCWA-KTWD: Banked CVP, KCWA-Westlands: Banked CVP, KCWA-Pixley and Homer: CVC, Within KCWA: SWP-CVP, KCWA-Rosedale; AEWSD/MWDSC; BBID-Musco; TLBWSD-Westlands/San Luis/Pleasant Valley; the VA Cemetery, and any entities receiving transfer water in accordance with Condition 5 for the period covered by this transfer. This total shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each location received.
 - c. Documentation that the water transferred/exchanged did not result in any increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.
14. Pursuant to Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change order, including method of 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.
15. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California ESA (Fish & G. Code, §§ 2050-2097) or the federal ESA (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this transfer, the Petitioners shall obtain authorization for an incidental take permit prior to construction or operation. Petitioners shall be responsible for meeting all requirements of the applicable ESA for the temporary transfer authorized under this Order.
16. 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:

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: JUL 02 2018