

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

DIVISION OF WATER RIGHTS

**In the Matter of License 11118
(Application 14804)**

South Sutter Water District

ORDER APPROVING TEMPORARY URGENCY CHANGE

SOURCE: Bear River

COUNTIES: Placer and Yuba

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITION

On March 29, 2022, South Sutter Water District (SSWD) filed a temporary urgency change petition (TUCP) with the State Water Resources Control Board (State Water Board, or Board), Division of Water Rights (Division), to transfer up to 6,897 acre-feet (af) of water pursuant to Water Code section 1435 et seq., under water right License 11118 (Application 14804). SSWD originally proposed to transfer the water from April 15, 2022 to August 31, 2022 to Woodland-Davis Clean Water Agency (WDCWA). On May 25, 2022, SSWD filed amendments to the TUCP. The amended TUCP requested an increase transfer rate from 25 cubic feet per second (cfs) to 37 cfs and extended the transfer season to end on September 15, 2022.

The transfer water would be made available at a proposed additional point of diversion by groundwater substitution, where SSWD's agricultural customers will pump groundwater in lieu of receiving water released from Camp Far West Reservoir (Reservoir) and Camp Far West Diversion Dam (Diversion Dam) under SSWD's License 11118.

Due to ongoing drought conditions, WDCWA has limited surface water supplies. WDCWA's water supply under Permit 20281 (Application 30358) is anticipated to be curtailed in accordance with Term 91 in early June 2022, and WDCWA's Sacramento River Settlement Contact allocation with the United States Bureau of Reclamation (Reclamation) is 18 percent. The intended use of the water from SSWD is to provide an

urgent water supply to meet the critical municipal health and safety needs and industrial surface water demands for the cities of Woodland and Davis, including the University of California, Davis (UCD).

1.1 Description of the transfer

SSWD proposes to transfer up to 6,897 af of previously stored water under License 11118 (Application 14804) from the Reservoir, which flows downstream to the Diversion Dam on the Bear River to WDCWA. From June 1 to September 15, 2022, SSWD proposes to release up to 6,897 af of water in the Reservoir into the Bear tributary to the Feather River thence Sacramento River thence the San Francisco Bay/Sacramento-San Joaquin Delta. SSWD's agricultural customers would increase groundwater pumping in lieu of receiving surface water that would otherwise be delivered by SSWD under License 11118. The water would be available for rediversion at WDCWA's point of rediversion.

SSWD will make previously stored surface water available for temporary transfer via groundwater substitution. Groundwater substitution involves the use of groundwater pumped from within SSWD's boundaries to irrigate crops in exchange for a corresponding amount of surface water (minus streamflow depletion loss) that will remain instream for rediversion at the proposed additional point of rediversion. Absent the proposed temporary transfer, SSWD would divert or redivert the entire quantity of stored surface water proposed for transfer from the Bear River pursuant to its water right for irrigation use within District boundaries.

1.2 Groundwater Substitution Transfers

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

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

channel from which the water is being transferred.

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

SSWD has indicated that its proposed transfer of water will be consistent with the Draft Technical Information. As such, the transfer is conditioned to require use of groundwater accounting and monitoring criteria, as well as the application of the streamflow depletion factor (SDF) as described in this Order. SSWD proposes to apply a SDF of 13 percent, which is consistent with the 2020 transfer agreed upon by SSWD, DWR, and Reclamation.

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

Long-Term Impacts to Stream Flow from Groundwater Substitution Transfers

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

Because real-time streamflow depletion due to groundwater pumping cannot be directly measured, DWR and Reclamation have estimated impacts on streamflow due to groundwater pumping by using analytical and numerical groundwater models. DWR and Reclamation utilize information from modeling conducted for Reclamation's 2019 Long-Term Water Transfers EIS/EIR (Transfer EIS/EIR) to establish a *minimum* 13 percent SDF mitigation measure for single year transfers requiring the use of SWP or CVP facilities. The Transfer EIS/EIR selected a 13 percent minimum SDF based on a modeling analysis of groundwater substitution transfers occurring across ten different individual years within the modeling period and assessed the total volume of depletions over a duration of ten

years from the start of each transfer year. The analysis showed the SDF ranged from 14 percent to over 40 percent, with an uncertainty of +/- 1 percent, hence 13 percent was selected as the minimum². The Transfer EIS/EIR mitigation measures also state that stream depletions vary based on hydrologic conditions and are in part dependent on hydrologic conditions following the transfer. The Transfer EIS/EIR did not specifically include streamflow depletion effects within SSWD's service area, hence a condition will be included in this Order requiring a report from SSWD to develop and confirm the applicable SDF.

Review of modeling results from the Transfer EIS/EIR shows that the surface water depletions due to groundwater pumping and surface water and groundwater interaction over the modeled period of record compared to total groundwater substitution transfers during those same years result in an average SDF of approximately 25 percent.³ Further, the Transfer EIS/EIR states that during a period of multiple dry years, the impacts during a single year can be greater and can have a potentially significant effect on water supply.

Because 2022 is the third consecutive year of dry conditions as emphasized by the Governor's Executive Order N-7-22, it is necessary to implement a more conservative approach to the SDF reflective of the risk of continued dry conditions to ensure avoidance of injury to other lawful users of water and unreasonable effects on fish and wildlife during this year and future years. Given that the 13 percent SDF is described as 1) a minimum reduction, 2) requiring transfer-specific consideration based on the hydrologic circumstances of the transfer year, and 3) that the Transfer EIS/EIR indicates depletions increase during a sequence of dry years, the State Water Board will condition this Order to ensure future impacts of depletions are addressed, should new information come to light demonstrating those impacts. Consistent with the analysis used as the basis for the 13 percent, which assessed cumulative depletions over a period of 10 years following the transfer, the consideration of additional impacts shall also be applicable for a period of ten years following this Order. The Sacramento Valley Groundwater-Surface Water Simulation Model (SVSim) under development by DWR has completed calibration and may

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

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

become available for use to assess streamflow depletions. The availability of a calibrated SVSim model would constitute new information regarding streamflow depletion.

2.0 BACKGROUND

2.1 Substance of District's License

License 11118 (Application 14804) authorizes the diversion to storage of up to 58,370 af of water per year from the Bear River between October 1 of each year to June 30 of the succeeding year. License 11118 also authorizes the direct diversion of up to 330 cfs from the Bear River between May 1 and September 1 of each year. The Diversion Dam (located about one mile downstream of the Reservoir) is an authorized point of direct diversion and rediversion from storage.

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

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

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

2.2 Proposed Temporary Changes

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

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

2.3 2021 and 2022 Governor's Proclamations of a Drought State of Emergency

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

The Governor's July 8, 2021 Proclamation states:

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

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

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

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

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

measures to encourage water conservation and to increase resilience of state water supplies during prolonged drought conditions.

3.0 COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

The State Water Board must comply with applicable requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) prior to issuance of any order approving a TUCP. (Cal. Code Regs., tit. 23, § 805.) For this proposed temporary urgency change, during March 2022, WDCWA adopted Addendum No. 15 to the 2007 Environmental Impact Report for the Davis-Woodland Water Supply Project (State Clearinghouse No. 2006042175), which identifies that the proposed water transfer from SSWD for rediversion by WDCWA would not result in any new or more severe impacts. The State Water Board has reviewed the information submitted by the WDCWA and has made its own independent finding that the requested changes will not result in any new or more significant environmental impacts. The State Water Board will issue a Notice of Determination for the TUCP.

4.0 PUBLIC NOTICE OF TEMPORARY URGENCY CHANGE PETITION

Pursuant to Water Code section 1438, subdivision (a), the State Water Board may issue a temporary urgency change order in advance of the required notice. The State Water Board will issue and deliver to SSWD as soon as practicable, a notice of the temporary urgency change order pursuant to Water Code section 1438. On June 7, 2022, the State Water Board will provide public notice. Pursuant to Water Code section 1438, subdivision (b)(1), SSWD 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 lie within 20 days from the date of issuance of the notice by the State Water Board. The State Water Board will post the notice of the temporary urgency change and Order on its website. The State Water Board also will distribute the notice through an electronic email notification system.

Any interested person may file an objection to a temporary urgency change. (*Id.*, subd. (d).) The State Water Board must promptly consider the objection and may hold a hearing on any objection. (*Id.*, subd. (e).) The State Water Board exercises continuing supervision over temporary urgency change orders and may modify or revoke temporary urgency change orders at any time. (Wat. Code, §§ 1439, 1440.)

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:

1. the permittee or licensee has an urgent need to make the proposed change;
2. the proposed change may be made without injury to any other lawful user of water;
3. the proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
4. the proposed change is in the public interest.
(Wat. Code, § 1435, subd. (b)(1-4).)

A temporary change order does not result in the 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. (Wat. Code, § 1440.)

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.

In this case, there is an urgent need for the proposed changes in order to provide surface water for diversion and use by WDCWA for public health and safety needs. Typically, WDCWA receives surface water supply under a combination of its Permit 20281 and its Settlement Contract with Reclamation. However, because of dry conditions, diversions under Permit 20281 are anticipated to be curtailed in accordance with Term 91 in early June 2022. In addition, the surface water supply under the Settlement Contract has been reduced to an unprecedented quantity pursuant to the Update to Notification of Critical Year from Reclamation dated March 14, 2022. Reclamation's notification cites the low water level in Shasta Reservoir, the lower-than-expected observed inflows into Shasta

Reservoir, and the lack of meaningful precipitation on the horizon as reasons for the reduced surface water supplies and the need to "plan for an extended period of extremely dry conditions for the remainder of this year." Therefore, WDCWA has an urgent need to secure a surface water supply to meet critical municipal and industrial demands for the cities of Woodland and Davis, including UCD.

In the absence of this temporary urgent transfer, the WDCWA water treatment facility would be shut down and the cities of Woodland and Davis and UCD would be reliant on their groundwater pumping systems. Shutting down the water treatment facility would result in an increased risk of producing non-compliant potable water, increased risk of discolored water complaints in the distribution system, and requiring the use of millions of gallons of treated water for cleaning the filters and disinfecting the clear wells and transmission lines upon restarting the facilities, a process that can take weeks.

In addition, the cities of Woodland and Davis, including UCD, would need to rely upon back-up water supply systems that were not intended to be used for prolonged periods of time; thus, the reliability of those systems are unknown. WDCWA is reliant upon a secure surface water supply that is now at risk due to the extreme ongoing drought conditions. As a result, WDCWA has an urgent need to secure a surface water supply to treat and supply to its partners. This temporary urgency change will assist in providing WDCWA with obtaining those needed surface water supplies, which is consistent with the Governor's 2021 and 2022 drought proclamations.

5.2 No Injury to Any Other Lawful User of Water

As conditioned, approving this TUCP will not result in injury to any other lawful user of water. Pursuant to Water Code section 1439, the State Water Board shall supervise diversion and use of water under this temporary urgency change order for the protection of all other lawful users of water and instream beneficial uses. Water made available by SSWD for this temporary urgent water transfer would be similar to the groundwater substitution transfers involving reservoir release that SSWD has participated in recent years, most recently in 2020. As in prior years, water proposed for the transfer consists of surface water released from the Reservoir which is made available by reducing deliveries to SSWD's customers that would have been consumptively used in absence of the transfer, and those customers will pump additional groundwater to replace the reduced surface water supply.

Surface water made available by SSWD will be reduced by a streamflow depletion factor of 13 percent for release under the proposed transfer. To the extent that the additional groundwater pumped does not affect streamflow, this water represents an amount of water which would not be available for use in the downstream water supply. To the extent that new information becomes available indicating that additional depletions due to this transfer are impacting surface flows when the Delta is in balanced conditions, SSWD will be required to develop a plan for and conduct releases to address the losses of stored water releases that would be required to offset the reduced stream flows. In general, the transfer of water that would otherwise be stored or consumptively used will not result in injury to

other legal users of water. In the absence of the transfer, SSWD would have released the surface water for delivery to its service area. To ensure that water released from the Reservoir is indeed additive to the downstream water supply and made available to WDCWA through groundwater substitution, this Order is conditioned to require SSWD to develop an accounting methodology quantifying how the water is made available.

Order WR 2000-10 requires SSWD to submit periodic groundwater monitoring reports to the Division, documenting changes in groundwater elevation and water quality in SSWD's service area. The most recent report, dated January 15, 2020, concludes that groundwater elevations within SSWD are stable and there are no significant changes in groundwater quality. SSWD reports that as of Spring 2021, 24 of the 26 groundwater wells in the monitoring network have recovered. To ensure no injury to other lawful users of water, this Order is conditioned to require that SSWD's transfer activities are consistent the Draft Technical Information, as described by SSWD in the TUCP, and that SSWD develop monitoring and mitigation plans to address potential effects on groundwater.

Therefore, the State Water Board finds that the proposed temporary urgency change will not result in injury to any other lawful user of water.

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

Prior to approval of a TUCP, the Board must find that the proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses. In addition, the State Water Board has an independent obligation to consider the effect of approval of the City's petition on public trust resources and to protect those resources where feasible. (National Audubon Society v. Superior Court (1983) 33 Cal. 3d 419 [189 Cal. Rptr. 346].) Public trust resources may include, but are not limited to, wildlife, fish, aquatic dependent species, streambeds, riparian areas, tidelands, and recreation in navigable waterways, as well as fisheries located in non-navigable waterways. It is also the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall use their authority in furtherance of the purposes of the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). State agencies should not approve projects that would jeopardize the continued existence of any endangered species or threatened species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat that would prevent jeopardy. (Fish & G. Code, §§ 2053 & 2055.)

For this proposed temporary urgency change, during March 2022 WDCWA adopted Addendum No. 15 to the 2007 Environmental Impact Report (SCH No. 2006042175) for the Woodland-Davis Water Supply Project, which finds that the proposed water transfer from SSWD for rediversion by WDCWA would not result in any new or more severe impacts. SSWD has contacted the California Department of Fish and Wildlife (CDFW) regarding the TUCP. CDFW's initial comment was to request that SSWD coordinate the

release schedule with CDFW. SSWD also informed the Central Valley Regional Water Quality Control Board of the TUCP.

In general, 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 does not result in false fish attraction flows to streams not suited for fish rearing. To ensure the transfer will not impact fishery resources, SSWD is required to adhere to a protective water transfer release schedule developed with CDFW.

Releases of stored water by the CVP and SWP when the Delta is in balanced conditions are in part for the protection of fish, wildlife, and other instream beneficial uses, including for endangered fisheries and water quality control. Losses of stored water during drought years exacerbate the risk of not maintaining adequate storage for meeting these necessary releases. Accordingly, this Order is conditioned to require additional releases by SSWD in future years should new information become available indicating an SDF of 13 percent insufficiently addressed the losses of stored water resulting from the transfer.

With the conditions imposed by this Order, including ongoing monitoring and reporting of conditions by SSWD, the State Water Board finds that granting the proposed TUCP will not have an unreasonable effect on fish, wildlife, or other instream beneficial uses and protects public trust resources to the extent feasible. The State Water Board will continue to evaluate conditions in the watershed throughout the duration of this Order and consider other actions that may further the protection for fish, wildlife, and other instream beneficial uses.

5.4 The Proposed Change is in the Public Interest

The proposed temporary urgency changes under SSWD's License 11118 have been developed in coordination with the WDCWA to maximize benefits of SSWD's water supply.

The changes provide a supplemental water supply to WDCWA for diversion and use to meet its critical municipal and industrial water demands for the cities of Woodland and Davis, including UCD. The proposed changes are consistent with the Governor's 2021 and 2022 drought proclamations.

Should the conditions that support the approval of this Order change, whether in alterations to water supply or identification of additional impacts to aquatic habitat, water quality, or other matters within the public interest, the State Water Board has the authority to revoke this approval or modify the terms and conditions of this Order as necessary to promote the interests of the public.

6.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1435. The findings of this Order are based on unique circumstances created by drought.

I conclude that, based on the available evidence:

1. The right holder has an urgent need to make the proposed change;
2. The proposed change will not operate to the injury of any other lawful user of water;
3. The proposed change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
4. The proposed change is in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT: the petition filed by South Sutter Water District (SSWD) for a temporary urgency change in License 11118 is approved.

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

1. The transfer of water is limited to 6,897 acre-feet (prior to subtracting the streamflow depletion factor) at a maximum transfer rate of 37 cubic feet per second for the period commencing from the date of this Order to September 15, 2022.
2. The stream depletion factor (SDF) is initially set at 13 percent for the purposes of this transfer. If new information becomes available within the 10 years following the transfer that indicates cumulative streamflow depletions due to the transfer are higher than 13 percent and the streamflow depletions are occurring or have occurred while the Delta is in balanced conditions within the ten-year period following the date of this Order, SSWD shall prepare a plan and water release schedule in coordination with Department of Water Resources and the United States Bureau of Reclamation to address the losses of State Water Project or Central Valley Project stored water and shall make releases according to the schedule once approved by the Deputy Director.
3. SSWD must submit a plan for the timing of transfer water releases to and obtain approval from California Department of Fish and Wildlife (CDFW) prior to commencing the transfer. The approved plan must be submitted to the Deputy Director for Water Rights within five (5) days of approval by CDFW.

4. To ensure the transfer is implemented consistent with the Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), and to assist in demonstrating no adverse impacts to groundwater resources, within 60 days of the date of this Order, SSWD must prepare and submit to the Deputy Director for Water Rights a Monitoring Program Plan and Mitigation Program Plan (collectively, the Plans). The Plans must be consistent with the objectives described in sections 3.5 and 3.6 of the Draft Technical Information. Transfer activities must cease if any deficiencies identified by the Deputy Director for Water Rights in the Plans remain unaddressed to the satisfaction of the Deputy Director for Water Rights for longer than 15 days.
5. SSWD must prepare an accounting methodology that describes how flow rates will be measured for 1) releases from Camp Far West Reservoir; 2) releases, diversions, and rediversions at Camp Far West Diversion Dam, and 3) diversion and rediversion rates into the North Canal, South Canal, and Main Canal. The accounting methodology must describe how these measurements will be combined to demonstrate additional flows in the Bear River due to the transfer that correspond to a reduction in deliveries to SSWD customers due to the transfer. The methodology must include quantitative example calculations of the methodology. The methodology must be submitted within 60 days of the date of this Order and be subject to approval by the Deputy Director for Water Rights. If the Deputy Director finds the methodology deficient for demonstrating additional flows in the Bear River for the transfer and those deficiencies are not remediated within a timeframe established by the Deputy Director, SSWD must cease transfer activities. If the approved methodology shows that the amounts proposed for the transfer are not being made available in the Bear River downstream of SSWD, the Deputy Director may order additional releases or bypasses of flow from Camp Far West Reservoir and Camp Far West Diversion Dam during the transfer period and up to the amount of the approved transfer and consistent with an accounting methodology established by the Deputy Director.
6. The place of use under License 11118 is temporarily amended to include the Woodland-Davis Clean Water Agency's (WDCWA) service area as shown on maps filed with the Division of Water Rights under water right Application 30358.
7. The following point of rediversion is temporarily added to License 11118. The water diverted at these facilities is limited to the quantities made available as transfer water, as specified above:

WDCWA Pumping Plant
North 2,008,200 feet and East 6,667,300 feet,
California Coordinate System of 1983, Zone 2,
being within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 34, Township 10 North, Range 3 East, Mount Diablo Base and Meridian.
8. Municipal and Industrial are temporarily added as purposes of use.

9. During the period of the transfer, SSWD must comply with applicable terms and conditions imposed by other regulatory agencies. This Order should not be construed as authorizing the violation of any agreement entered into by SSWD.
10. Within 90 days of completion of the transfer, SSWD must provide the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report must include the following information:
 - a. General locations where the transferred water was used;
 - b. The location and characteristics of the wells used to pump groundwater, if available.
 - c. The daily average rate of water made available for transfer from Camp Far West Reservoir pursuant to this Order;
 - d. An accounting by daily average release of the parameters identified in Condition 5 above, including rate and total volume of any storage releases and deliveries for transfer from Camp Far West Reservoir; the daily average streamflow measured at the nearest representative gaging station on the Bear River;
 - e. Groundwater elevations within the vicinity of SSWD prior to the proposed transfer; and
 - f. SSWD must incorporate into the report any amendments to SSWD's submitted Proposed 2022 Water Transfer Groundwater Level Monitoring Program and Mitigation Plan identified by the Deputy Director for Water Rights.

SSWD must also develop and submit to the Deputy Director for Water Rights, by July 1 of each year following 2022, a map defining the groundwater elevations within the vicinity of SSWD until such time as these elevations correspond to pre-transfer levels.

11. No later than 90 days following the end of the transfer period, SSWD must provide the Deputy Director for Water Rights a report describing its plans to develop a stream flow depletion factor applicable to SSWD's service area. This information may be combined with the report required by Condition 10.
12. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

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

13. This Order does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a “take” will result from any act authorized under this Order, right holder shall obtain any authorization for an incidental take prior to commencing the transfer of water. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.
14. The State Water Board reserves jurisdiction to supervise the transfer, exchange, and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: JUN 03 2022