

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF PERMIT 13856 (APPLICATION 18085)
PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 12,000 ACRE-FEET OF WATER
FROM PLACER COUNTY WATER AGENCY TO EAST BAY MUNICIPAL UTILITY DISTRICT**

SOURCES: Duncan Canyon, North Fork American River, Middle Fork American River, Rubicon River

COUNTIES: Placer and Sacramento

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On June 25, 2015, Placer County Water Agency (PCWA or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), a petition for temporary change under Water Code Section 1725, et seq. PCWA has requested to transfer up to 12,000 acre-feet (af) of water to East Bay Municipal Utility District (EBMUD). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

1.1 Description of the Transfer

PCWA proposes to transfer a maximum of 12,000 af of Middle Fork Project (MFP) water ("transfer water") currently stored in Hell Hole Reservoir on the Rubicon River and French Meadows Reservoir on the Middle Fork American River to EBMUD. The transfer water would be released from the reservoirs to Ralston Afterbay, PCWA's most downstream reservoir on the Middle Fork American River, through Oxbow Powerhouse to the Middle Fork, thence North Fork American River, to Folsom Reservoir. Subsequent release of the transfer water at Folsom Reservoir would be scheduled by the United States Bureau of Reclamation (Reclamation) in cooperation with EBMUD so that the proposed transfer would not disrupt normal Central Valley Project (CVP) or State Water Project (SWP) operations and would adhere to all required flow standards for the lower American River. After release from Folsom Reservoir, the transfer water would flow down the lower American and Sacramento Rivers and be rediverted (minus carriage and conveyance losses estimated at 600 af) at the Freeport Regional Water Project (FRWP) intake facility. After rediversion at FRWP, transfer water would be conveyed through underground pipeline to the Folsom South Canal which flows south to the Mokelumne Aqueducts, and then west to the EBMUD service area to provide supplemental water to meet customer demands during the drought.

In order to accomplish the transfer, PCWA proposes to release 12,000 af of water from its MFP reservoirs during the months of July and August of 2015. For the purposes of the proposed transfer, PCWA will be solely exercising Permit 13856, which is described in Section 2.1. In the absence of this transfer, the total 12,000 af of water would remain in storage in PCWA's MFP reservoirs.

2.0 BACKGROUND

2.1 Substance of PCWA's Permit

Permit 13856 (Application 18085) authorizes direct diversion and combined storage/consumptive use of MFP water as follows: (a) direct diversion of 1,225 cubic feet per second (cfs) from about November 1 through about July 1 of the succeeding year from North Fork American River; (b) 25,000 af by offstream storage, at a maximum rate of diversion of 400 cfs, from about November 1 of each year to about July 1 of the succeeding year from Duncan Creek to French Meadows Reservoir; (c) 95,000 af by storage from about November 1 of each year to about July 1 of the succeeding year from the Middle Fork American River at French Meadows Reservoir; and (d) 129,000 af by storage from about November 1 of each year to about July 1 of the succeeding year from the Rubicon River at Hell Hole Reservoir. The authorized purposes of use include: irrigation, municipal, industrial, recreation, and incidental domestic use. The authorized place of use is shown on PCWA's map set dated July 31, 1996. Permit 13856 expired on December 1, 2007 and on January 7, 2008, PCWA filed a petition for extension of time. The petition for extension of time is currently pending before the State Water Board.

2.2 Middle Fork Project (MFP)

PCWA owns and operates the MFP and holds appropriative water rights for the MFP pursuant to Permits 13856 and 13858 (Applications 18085 and 18087). The permits allow for a total direct diversion amount of 2,025 cfs from about November 1 of each year to about July 1 of the succeeding year from North Fork American River and for a combined diversion to storage of 315,000 af per annum of MFP water held in two storage reservoirs (French Meadows Reservoir and Hell Hole Reservoir). The MFP is a multi-purpose project designed to conserve waters of the Middle Fork American River, the Rubicon River, and tributaries for domestic, municipal, industrial, recreational, and irrigation uses as well as for hydro electrical power generation. The MFP's principal project features include French Meadows Reservoir and Hell Hole Reservoir (French Meadows Reservoir is located on the Middle Fork American River and Hell Hole Reservoir is located on the Rubicon River), five associated diversion dams (Duncan, North Fork Long Canyon, South Fork Long Canyon, Middle Fork Interbay, and Ralston Afterbay), and five power plants (French Meadows, Hell Hole, Middle Fork, Ralston, and Oxbow).

PCWA has determined that it has at least 12,000 af of surplus water stored in the MFP. The determination was reached by reviewing current MFP reservoir storage levels, projected inflow, and modeled project operations data for 2015. The peak Water Year (WY) 2015 combined storage level for the MFP occurred on May 25, 2015, measuring 170,315 af. As of June 24, 2015, PCWA had approximately 157,000 af of water held in storage in its MFP reservoirs.

PCWA would be solely exercising Permit 13856 for the proposed transfer of up to 12,000 af of water to EBMUD.

2.3 Lower American River Water Forum Agreement

PCWA is a signatory stakeholder of the American River Water Forum Agreement (WFA) that was established in 2000 and adopted by 40 regional stakeholders (including environmental groups such as the Sierra Club, Save the American River, and Friends of the River). The goal of the WFA is to ensure conservation of resources in the American River watershed consistent with the following seven elements: 1) increased surface water diversions; 2) actions to meet customer needs while reducing diversion impacts in drier years; 3) support for improved pattern of fishery flow releases from Folsom Reservoir; 4) lower American River habitat management; 5) water conservation; 6) groundwater management; and 7) Water Forum successor effort. As such, the WFA is to ensure a balance in managing regional water supplies and fisheries resources in the American River watershed, with a focus on the lower American River from Folsom Reservoir/Lake Natoma downstream to the

confluence with the Sacramento River, which is a critical reach for threatened Central Valley steelhead and fall-run Chinook salmon.

The WFA specifies that, given PCWA's demands at the American River Pump Station (ARPS), in the driest or 'conference' years, when the March through November Unimpaired Inflow to Folsom Reservoir is less than 400,000 af, PCWA will re-operate its MFP and replace water to the lower American River, conditioned upon PCWA's ability to sell this replacement water to a willing buyer downstream of the mouth of the American River, under terms acceptable to PCWA. The WFA also requires that the source of this replacement/mitigation water in drier years would be water not normally released from the MFP. Under PCWA's Purveyor Specific Agreement (PSA), which is included in the WFA, PCWA would make such "supplemental" releases contingent upon (a) its ability to sell the released water for use below the lower American River on terms acceptable to PCWA and (b) PCWA's determination that it has sufficient water in its reservoirs to make the additional releases to mitigate conditions in dry years without jeopardizing the supply for PCWA's customers. According to PCWA, the proposed transfer meets the above-listed conditions. PCWA has noted that its main water supply is not from the MFP, but from Pacific Gas & Electric Company's (PG&E) Drum-Spaulding Project, of which it is currently being allocated 58 percent of the contracted supply in 2015. Accordingly, PCWA has projected diversion of approximately 16,000 af of stored MFP water at the ARPS in 2015 to help offset the reduced Drum-Spaulding supply in the water service zones served by the PG&E supply. Based on the amount of water pumped at the ARPS, PCWA is obligated under its PSA to convey 12,000 af of previously stored MFP water (the transfer under the subject petition) downstream to benefit the lower American River reach consistent with its terms of the WFA. As a condition of its WFA commitment, PCWA has an agreement with EBMUD to purchase the transfer water for beneficial uses within the EBMUD service area as described in Section 2.4.

2.4 EBMUD

EBMUD is a public utility district that supplies water to approximately 1.34 million people and water supply for industrial, commercial, institutional, and irrigation water users in the East Bay region of the San Francisco Bay Area. The water service area encompasses incorporated and unincorporated areas within Alameda and Contra Costa Counties. EBMUD's principal raw water supply is from the Mokelumne River in the Sierra Nevada, with a point of diversion at Pardee Reservoir in Calaveras and Amador Counties. EBMUD's existing water supplies are sufficient in non-drought years; however, in dry years, EBMUD's water supplies can be supplemented with water from the CVP or with purchased transfer water to meet customer demands.

As a result of California's exceptional drought conditions, EBMUD is experiencing historically low water supply storage levels in Pardee Reservoir and will only be receiving 25 percent allocation of CVP dry-year contract deliveries. As a result, EBMUD's Board of Directors declared a continuing water shortage emergency within EBMUD's service area, declared a Stage 4 critical drought, adopted a mandatory District-wide water use reduction goal of 20 percent, declared the need to use the Freeport Facility to deliver supplemental supplies to EBMUD's service area, and increased mandatory restrictions on potable water use. The water transfer to EBMUD would provide supplemental water to meet its customer demands during the drought and would be used entirely within the EBMUD service area.

The place of use under Permit 13856 would be temporarily changed and expanded to include the service area of EBMUD which includes the cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Hercules, Oakland, Piedmont, Pinole, Richmond, San Leandro, San Pablo, Walnut Creek, and the City of Brentwood and unincorporated areas in Alameda and Contra Costa Counties as shown on EBMUD's December 6, 2010 Map 1932-R.

2.5 Proposed Temporary Changes

PCWA proposes to transfer a maximum of 12,000 af of MFP water currently stored in Hell Hole Reservoir and French Meadows Reservoir to EBMUD. To accomplish the water transfer, the petitioner has requested the following changes in the place of use and points of rediversion under PCWA's water

right Permit 13856: 1) allow for redirection of transfer water by EBMUD at the FRWP intake facility; and 2) allow for the consumptive use of the transfer water within the revised place of use which includes the EBMUD service area.

2.6 Refill Agreement with Reclamation and Warren Act Agreement

As a requirement of the proposed transfer in 2015, PCWA will enter into a Reservoir Refill Agreement with Reclamation. The Refill Agreement will ensure that there is no injury to downstream legal users of water with vested rights in the American River watershed.

In a June 3, 2015 letter to Reclamation, PCWA reported the status of previous refill obligations set forth in its 2013 and 2014 Refill Agreements with Reclamation pertaining to three previous transfers of a combined total of 60,000 af of surplus water from the MFP. PCWA indicated in the letter that it believes 53,961 af of its 60,000 af combined 2013 and 2014 Refill Reservation obligation¹ has been cleared due to Folsom Lake storage conditions and has asked for Reclamation's concurrence.

EBMUD will need to execute a Warren Act contract with Reclamation in order to temporarily store (less than 30 days) the 2015 transfer water in Folsom Reservoir prior to its release. As part of the Warren Act contract, EBMUD would need to informally consult with the National Marine Fisheries Service and/or United States Fish and Wildlife Service to obtain the proper concurrence under Section 7 of the Endangered Species Act for federally listed threatened and endangered species. In addition, Department of Water Resources (DWR) and Reclamation will coordinate SWP and CVP operations to ensure transfer water pursuant to Permit 13856 does not interfere with the Reclamation/DWR Coordinated Operation Agreement.

2.7 Governor's Proclamations of a Drought State of Emergency

On January 17, 2014, Governor Edmund G. Brown Jr. issued a Proclamation of a Drought State of Emergency (January Proclamation) based on California's record dry conditions. The January Proclamation indicated that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmers' long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction.

The Proclamation refers to the Governor's Executive Order B-21-13 (Executive Order), issued on May 20, 2013 for the purpose of streamlining approval for water transfers to address the dry conditions and water delivery limitations to protect California's agriculture. The Executive Order directs the State Water Board and DWR to expedite processing of water transfers (in accordance with the Water Code) and to assist water transfer proponents and suppliers, as necessary, provided that the transfers will not harm other legal users of water and will not unreasonably affect fish, wildlife, or other instream beneficial uses. The State Water Board and DWR were also directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California.

On April 25, 2014, Governor Brown issued a Proclamation of a Continued State of Emergency (April Proclamation). The Governor reiterated direction to the State Water Board and DWR to immediately and expeditiously process requests to move water to areas of need, including requests involving voluntary water transfers. If necessary, DWR will request that the State Water Board consider changes to water right permits to enable such voluntary movements of water. The April Proclamation also states that for actions taken pursuant to Directive 2 (water transfers), Section 13247 of the California Water Code is suspended. California Water Code Section 13247 requires that state offices,

¹ Per term 5(a) of the Refill Agreements, the MFP cannot accumulate storage in years when the projected natural inflow to Folsom Reservoir (April 1, 2015 through September 30, 2015) is projected to be less than 600,000 af. Therefore, although the 53,961 af of PCWA's accumulated 60,000 af refill obligation has been met, PCWA must meet a combined reservoir storage target of 94,500 af during winter 2015/2016.

departments, and boards, in carrying out activities which may affect water quality, shall comply with water quality control plans approved or adopted by the State Water Board, unless otherwise directed or authorized by statute in which case they shall indicate to the regional boards in writing their authority for not complying with such plans. The 30-day comment period provided in section 1726(f) of the Water Code, relevant to temporary water transfers, is also suspended for actions taken pursuant to Directive 2, but the State Water Board will provide for a 15-day comment period.

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

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

2.8 State Water Board Water Unavailability Actions

On May 1, 2015, the Executive Director for the State Water Board issued a Water Unavailability Notice (Notice) for all post-1914 water rights in the Sacramento River Watershed. PCWA indicated that all proposed transfer water was diverted to MFP storage prior to the May 1, 2015 Notice and that PCWA has voluntarily submitted all information pursuant to the Notice. Releases of water collected to storage prior to issuance of the Notice are available for use or transfer after Notice.

3.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

On July 6, 2015, public notice of the petition for temporary change was provided by posting on the Division's website and via the State Water Board's LYRIS email notification system. In addition, on July 6, 2015, the Petitioner noticed the project via publication in the Sacramento Bee newspaper and mailed the notice via first class mail to interested parties. The Division did not receive any comments from interested parties within the comment period deadline.

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The petitioner filed the petition for temporary transfer of water pursuant to Water Code section 1725, et seq. Water Code section 1729 exempts temporary changes involving a transfer of water from the requirements of CEQA. (Pub. Resources Code, § 21000, et seq.) The State Water Board will issue a Notice of Exemption for this project.

In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The State Water Board may approve a temporary change due to a transfer of water only if it determines that the proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) The independent evaluation of impacts to public trust resources was conducted concurrent with the Water Code section 1727 evaluation.

5.0 REQUIRED FINDINGS OF FACT

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

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to 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.” PCWA’s petition states that the 12,000 af of proposed transfer water is currently held in storage in MFP reservoirs and would remain in storage absent the transfer.

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

5.2 No Injury to Other Legal Users of 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 transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1727, subd. (b)(1).) The water proposed for transfer pursuant to this temporary change consists of water previously stored in French Meadows Reservoir and Hell Hole Reservoir pursuant to Permit 13856. In the absence of the proposed transfer, the water would remain in storage for future use by PCWA and would not be available to other water users. Since the water would otherwise have remained in storage, there will be no changes in return flows as a result of the transfer.

PCWA will enter into a Reservoir Refill Agreement with Reclamation (that is acceptable to DWR), ensuring that future refill of any storage space in MFP reservoirs and/or Folsom Reservoir created by the transfer will not reduce the amount of water that Reclamation, DWR, or other water users could otherwise divert under their water rights. Therefore, no injury to other legal users of water would occur due to the transfer.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed temporary change will not injure any legal user of water.

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

Before approving a temporary change due to a transfer of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) PCWA has indicated that although the primary purpose of the transfer is for consumptive and beneficial municipal and industrial uses within the EBMUD service area, the transfer release from the MFP reservoirs will convey up to 12,000 af of supplemental flows in the Middle Fork and North Fork American Rivers to the point of redirection (PORD) at the FRWP intake facility. The supplemental releases would be made pursuant to PCWA’s PSA under the WFA, which requires transfer water to flow through the lower American River in drier water years to offset pumping at the ARPS. Therefore, the increases in flows resulting from the transfer would likely enhance aquatic habitats, potential white-water boating and recreational opportunities, as well as potentially improving and/or maintaining persistence of the cold water pool in Folsom Reservoir given the current storage levels. In addition, the transfer water would likely have the same benefits for the Sacramento River to the PORD at the FRWA. The transfer would improve water quality and thereby benefit instream beneficial uses including those for fish and wildlife. As a condition of redirecting the

transfer water at the FRWP intake facility, PCWA has committed to following all existing state and federal regulations, including any requirements of Decision 1641, State and Federal endangered species acts, and all state and federal regulations and permits that apply to the proposed PORD.

With the incorporation of the terms and conditions listed in the Order, there is no evidence in the record that the proposed transfer of water would have an unreasonable effect on fish, wildlife, or other instream beneficial uses. In addition to ensuring that the California Department of Fish and Wildlife (CDFW) received a copy of the petition on June 29, 2015, Division staff inquired whether CDFW had any concerns related to the temporary change. CDFW did not submit comments or relay any concerns regarding the temporary change.

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

6.0 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 2010-0029.

7.0 CONCLUSIONS

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

I conclude that, based on the available evidence:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of 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 for the transfer of up to 12,000 af of water under Permit 13856 is approved.

All existing terms and conditions of Permit 13856 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on the date of this Order and continuing for one year.
2. The place of use under Permit 13856 is temporarily expanded to include the service area of EBMUD which includes the cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Hercules, Oakland, Piedmont, Pinole, Richmond, San Leandro, San Pablo, Walnut Creek, and the City of Brentwood and unincorporated areas in Alameda and Contra Costa Counties; as shown on EBMUD's December 6, 2010 Map 1932-R filed with the State Water Board under Permit 10478 (Application 13156).

3. EBMUD's FRWP intake facility is temporarily added as an authorized PORD under Permit 13856. The FRWP intake is located within the SW¼ of NE¼ of Section 11, T7N, R4E, MDB&M.
4. Rediversion of water at FRWP is subject to compliance with all applicable biological opinions, and any other conditions imposed by other regulatory agencies (including the conditions set forth in the State Water Board's Order dated June 15, 2006, approving use of the FRWP by Reclamation to serve EBMUD) applicable to this facility.
5. Water may not be transferred to the FRWP intake until petitioner has implemented a Refill Agreement between Reclamation and petitioner to address potential refill concerns in PCWA's MFP reservoirs, and Folsom Reservoir, if applicable. The executed Refill Agreement must also be acceptable to DWR. Documentation that an acceptable Refill Agreement has been agreed to by Reclamation, DWR, and petitioner shall be submitted to the Deputy Director for Water Rights within 15 days of the date of execution of the agreement. Petitioner shall submit an unimpaired flow forecast of the MFP, reservoir carryover storage and operations information to Reclamation for evaluation and prior approval.
6. Petitioner shall ensure that EBMUD has executed any required Warren Act contract with Reclamation prior to transferring water through Folsom Reservoir under this Order. Petitioner shall provide confirmation from Reclamation and EBMUD to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 30 days of issuance of this Order.
7. During the period of transfer, petitioner shall comply with applicable terms and conditions imposed by other regulatory agencies. This Order shall not be construed as authorizing the violation of any agreement entered into by the petitioner.
8. Within 90 days of the completion of the transfer, but no later than October 1, 2016, the petitioner shall provide the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:
 - a. The duration and magnitude of the increased releases of water and the corresponding volume of water released from MFP reservoirs as a result of this transfer (reported on a daily basis);
 - b. The average daily release rates and corresponding volume of water released from Folsom Reservoir as a result of this transfer (reported on a daily basis); and
 - c. The value of the Refill Reservation as defined in the Refill Agreement (reported on a daily basis).

Should the value of the Refill Reservation exceed zero at the time of this report, PCWA shall submit subsequent reports by June 1 of each year until the Refill Reservation equals zero. These reports shall include the daily values of the Refill Reservation.

9. 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.

10. 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 Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this transfer, the petitioner shall obtain authorization for an incidental take permit prior to construction or operation. Petitioner shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.
11. I reserve jurisdiction to supervise the transfer, exchange, and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: July 24, 2015