

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 CHANGE IN THE PLACE OF USE OF LICENSE AND
PERMITS OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION IN RESPONSE TO DROUGHT CONDITIONS**

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 INTRODUCTION

Due to the historic drought conditions experienced in California in 2013 and 2014, on February 12, 2014, 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), Petitions for Temporary Change (TUCPs) under Water Code Section 1725, et seq. With the petitions, 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, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 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 downstream 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 will be 277,863 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) thereby allowing DWR and Reclamation to more effectively and efficiently utilize the operational flexibility of the combined Projects to supply water south of Banks and Jones. 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 within areas experiencing critical water supply shortages this year. Approval of the petitions will not increase the quantity or alter the timing of diversions from the Delta or San Joaquin River.

The transfer/exchanges of water are limited to the period commencing on May 1, 2014, and continuing for a one year period.

¹ The petitions were 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, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973 and 12364 (Applications 23, 234, 1465, 5626, 5628, 5638, 9363, 9364, 9366, 9367, 9368, 13370, 13371, 15374, 15375, 15376, 15764, 16767, 16768, 17374 and 17376, respectively) of the United States Bureau of Reclamation's Central Valley Project.

2.0 CALIFORNIA DROUGHT CONDITIONS IN 2014

2.1 Governor Brown's 2014 Drought Emergency Proclamation

Calendar year 2013 was the driest in recorded history for many parts of California, and water year 2013/2014 rain totals are nearly as dry as the two driest water years (1923/1924 and 1976/1977) on record for the state. Additionally, California is entering its third straight year of below-average rainfall including very low snowmelt runoff resulting in significantly low reservoir levels throughout the State at the beginning of this water year. The low initial storage and historically dry conditions experienced since January 2013 have resulted in significant reductions in water supplies in California and will likely lead to critical water shortages in 2014.

On January 17, 2014, Governor Edmund G. Brown Jr. issued a Drought Emergency Proclamation based on California's record dry conditions. The Proclamation indicated that the State's water supplies dipped to alarming levels as evidenced by the snowpack was approximately 20 percent of the normal average for January²; the SWP and CVP reservoirs had very low water levels for January; California's major river systems, including the Sacramento and San Joaquin rivers, had significantly reduced surface water flow; and groundwater levels throughout the State had dropped significantly.

With the Proclamation, the Governor directed the State Water Board to in part expedite processing of water transfers including immediately consider petitions requesting consolidation of the places of use of the SWP and CVP. As indicated in the Proclamation, this will streamline water transfers and exchanges between water users within the area of these two major water projects.

2.2 Drought Impacts to SWP and CVP Operations

Due to the consistent dry pattern, on January 29, 2014, DWR announced that there would be no allocation of SWP supply water this year. DWR has also indicated that if there is no improvement in hydrology over the course of this year, the SWP allocation will not be increased, which would represent the largest allocation deficiency for municipal and industrial SWP contractors on record.

Reclamation began water year 2013/2014 with 5.1 million acre-feet (af) of carryover storage in six key CVP reservoirs, which was 43 percent of capacity and 75 percent of the 15-year average for October 1. Since that time, however, the state has continued to experience record dry conditions. On February 21, 2014, Reclamation announced its water supply allocations for 2014. Agricultural water service contractors south-of-Delta were allocated zero percent of their contract supply of 1.965 million af; municipal and industrial water service contractors south-of-Delta were allocated 50 percent of their historic use; and San Joaquin River Exchange and Settlement Contractors, whose CVP water supply allocation is subject to pre-established Shasta Reservoir inflow criteria, were allocated 40 percent of their contract supply of 875,000 af. Wildlife refuges (Level 2) north- and south-of-Delta, which also have allocations subject to pre-established Shasta inflow criteria, were allocated 40 percent of their contract supply of 422,000 af.

In addition to annual hydrology conditions, the ability of DWR and Reclamation to deliver Project water south of the Delta is affected by operational restrictions which limit diversions from the Delta. The operational restrictions include those contained in State Water Board Decision 1641 (D1641) as well as the current biological opinions issued for the protection of Delta smelt and anadromous fishes and marine mammal species. Operational limitations severely restrict Project exports through June, impacting the ability of the Projects to capture excess spring flows and move water from upstream storage to contractors south of the Delta.

² As of March 26, 2014, the Northern Sierra snow water content was estimated at 13 percent of normal for that date and 13 percent of the average April 1 measurement when snowpack is normally at its peak.

3.0 SUBSTANCE OF TEMPORARY URGENCY CHANGE PETITIONS

3.1 Existing Place of Use of DWR and Reclamation Water Rights

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

3.2 Change in Place of Use Proposed With TUCPs

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 License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 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 petitions are approved. The areas to be added to the SWP are shown on Map 214-202-83 and the areas added to CVP are shown on Map 214-202-84 on file with the State Water Board under Applications 14443 and 23, respectively.

3.3 Transfers Proposed With TUCPs

The petitions include the following transfers:

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 2014 and 2015, there are several operational and maintenance issues that may require the delivery of the SCVWD's CVP or SWP supplies through an exchange. Up to 130,000 af of the SCVWD's CVP and/or SWP supplies may be subject to these alternative conveyance approaches. The need for this flexibility is described in more detail below:

- Based on projected 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 San Felipe Division can be limited, potentially impacting the ability to meet district demands. In addition, low water levels can result in reduced water quality causing water treatment problems which could result in severe reductions in the quantity of CVP supplies conveyed through the San Felipe Division, as well as increased water treatment costs. Another issue is the aging infrastructure in the San Felipe Division, which could result in both planned and unplanned facility shutdowns for maintenance and repair. Both San Luis Reservoir water level issues and potential infrastructure repairs may require delivery of SCVWD's CVP water through an exchange with the SWP. In addition, an exchange of CVP and SWP supplies in O'Neill Forebay will facilitate withdrawal of SCVWD's previously banked supplies from the Semitropic Water Storage bank. Reclamation and DWR are therefore 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, and in exchange, an equal amount of SWP water would be pumped at Banks and delivered through the SBA. The proposed exchange would not increase the total amount of CVP or SWP water allocated to SCVWD by DWR or Reclamation.
- Planned and unplanned shutdowns on the SBA as well as within SCVWD's service area may prevent deliveries of SWP water through the SBA. Critical maintenance on the SBA is scheduled to take place in November 2014 in preparation for SCVWD's Anderson Dam seismic retrofit project. In addition, SCVWD's aging infrastructure may require unplanned shutdowns that limit the ability to receive SWP water through the SBA. Reclamation and

DWR are requesting an exchange of CVP and SWP water to allow the delivery of SCVWD's SWP through an exchange with the CVP. 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. In exchange, an equal amount of CVP water would be pumped at Jones and delivered to SCVWD through the San Felipe Division. 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 San Felipe Division and the SBA. 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 DPWD, delivery of a portion of their CVP supply to lands within OFWD and delivery of a portion of their SWP supplies through CVP turnouts on the Delta Mendota Canal to lands within DPWD. The proposed exchanges would result in no increase in total SWP or CVP allocations to either district.

In addition to the transfer above, OFWD and DPWD propose an even exchange 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 the SWP. Up to 2,000 af of SWP water will be delivered through the OFWD turnouts on the California Aqueduct. An equal amount of CVP water will be delivered to the SWP 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 Tulare Water District Exchange

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 affect 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 hydrologic conditions and anticipated operational restrictions, it is possible there will be no ability to move CVC water through Jones or Banks until fall 2014. In order to assist KTWD in meeting peak irrigation demands this summer, KCWA is willing to provide up to 10,660 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 to receive the fall CVP water are outside the CVP place of use. The exchange will not result in an increase in allocations to either district.

d. *Arvin-Edison WSD/Metropolitan Water District Program*

Groundwater Banking:

Metropolitan Water District of Southern California (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 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 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 water quantity, 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 bucket-for-bucket (one-for-one) reduction of MWDSC's groundwater banking account with AEWSD. The exchange will occur only to the extent MWDSC has a positive bank account. Upon return of water to MWDSC, an equivalent amount of MWDSC's previously banked SWP water would transfer to AEWSD.

Regulation Program:

Additionally, the requested change to a consolidated place of use would allow AEWSD to deliver CVP water supplies to MWDSC first and receive back SWP water supplies in exchange at a later time. This program better facilitates the use of AEWSD 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 bucket-for-bucket (one-for-one) basis.

Fall/Winter Supplies Exchange:

In the event that hydrologic conditions become wetter than expected later in the year (2014 fall or 2014/2015 winter), and AEWSD believes that there may be limited ability to carry over 2014 CVP water supplies in CVP reservoirs, AEWSD 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 facilities. MWD is willing to provide water management services to assist in regulating the available contract supplies.

MWDSC would receive AEWSD water prior to spill and at a later time, return a lesser amount (return 2 af for every 3 af regulated) to AEWSD. The unbalanced nature of the exchange reflects the compensation to MWDSC for their water management services, which would protect the water from spilling. In the absence of the exchange with MWDSC, AEWSD would attempt to avoid spilling the water by delivering the available CVP contract supplies to groundwater banking programs within the AEWSD 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 AEWSD of the San Joaquin River Restoration Program by increasing AEWSD's ability to efficiently use water supplies and by increasing the opportunities to complete the return of SJRRP releases to AEWSD. 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 100,000 af of CVP water supplies for all three programs described above.

CVP Delta supplies will be provided as stated above.

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

e. Kern County Water Agency to Westlands – Kern River Water

The Kern County Water Agency (KCWA) proposes to deliver up to 25,000 af of its SWP water to lands within Westlands Water District (Westlands) to facilitate the delivery of previously stored CVP water in the Semitropic Water Storage District (Semitropic) and the Kern Water Bank (KWB) banking programs. Two landowners, Paramount Farming Company and Poso Creek Water Company, have agricultural operations in both KCWA and Westlands and have both a SWP and CVP contract supply. The landowners have banked CVP water in Semitropic and KWB. The landowners plan to recover up to 25,000 af of their previously stored CVP water. Delivery of the CVP water currently stored in Semitropic and KWB will be accomplished through exchange. KCWA will deliver up to 25,000 af of SWP water to Westlands turnouts on the joint use facilities. An equivalent amount of the landowners' water stored in Semitropic and KWB will be transferred to KCWA.

KCWA also proposes to provide up to 7,553 af of its SWP water to Westlands to facilitate the delivery of Kern River water rights water purchased by Westlands. Up to 7,553 af of Nickel Family, LLC Kern River water rights water previously stored in Semitropic Water Storage District will be assigned to KCWA. The exchange will be a one for one exchange. The KCWA SWP Table A water will be delivered to Westlands's turnouts in Reaches 4-7 of the joint-use San Luis Canal.

f. Department of Veteran Affairs – San Joaquin Valley National Cemetery

The Department of Veteran Affairs – San Joaquin Valley National Veterans Cemetery (VA Cemetery) contracts with Reclamation for 850 af of CVP supply. The CVP water cannot physically be delivered directly to the VA Cemetery when the use of Joint Point of Operations (JPOD) authorized under D1641 or the California Aqueduct-Delta Mendota Canal Intertie (Intertie) is not available. The VA Cemetery is located near Reach 2B on the California Aqueduct (north of O'Neill Forebay). 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.

g. Musco Olive Products, Inc.

Byron Bethany Irrigation District (BBID) contracts with Reclamation for a water supply from CVP. BBID provides up to 800 af per year under contract to Musco Olive Products, Inc. (Musco). Musco is not connected to BBID's distribution system. Neither BBID nor the CVP can physically convey CVP water to Musco when the use of JPOD or the Intertie is not available. 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 800 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.

h. Potential Additional Transfers/Exchanges

The above transfers include all the specific transfers requested as of the date of the petitions. However, because of the dire water supply conditions, SWP and CVP contractors will need to

continue to explore all possible opportunities to retrieve previously stored Project supplies and optimize the delivery (quantity and timing) of their limited supplies from all available sources. The Petitioners anticipate that by the summer of 2014 more needs and opportunities for exchanging SWP and CVP water may be developed. The Petitioners request that any order approving these petitions include 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/exchanges listed above will be conducted in accordance with the following parameters:

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 exchanged or transferred 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 of water. The State Water Board shall approve temporary changes involving the transfer 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 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 section 1727, subdivision (b)(2).

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

DWR and Reclamation filed the petitions for a temporary transfer and change under 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 file a Notice of Exemption.

6.0 PUBLIC NOTICE AND COMMENTS

On February 14, 2014, public notice of the petitions 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 Lyris email notification program; and 4) by publication in the Sacramento Bee and the Stockton Record. The State Water Board received no comments.

7.0 REQUIRED FINDINGS OF FACT

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 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 petitions, the transfer/exchange 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 projects proposed with the petitions including any potential future projects meeting the criteria outlined above, involve water that is part of the SWP and/or CVP contractors allocated supplies, was diverted to storage and rediverted from the Delta consistent with all applicable regulatory requirements, has been exported from the basin in which it was developed, and in light of the severe water supply shortages would clearly be consumptively used or stored in the absence of the exchanges or transfers. The requested changes will provide the operational flexibility the Projects need to get available supplies where they are needed most and in the most efficient manner possible. The exchanges or transfer will allow agencies experiencing critical 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 license and 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.

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 consumptively used or stored in the absence of the proposed temporary change.

7.2 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 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, § 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 permits governing those diversions. There are no other legal users downstream of the points of diversion that would be affected by the 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 SVP 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 exchanges.

The 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 exchanges. There could be some shift in the timing of deliveries of SWP and CVP supplies. Exchanges similar to those proposed above were conducted in 2009, 2010, 2012, and 2013 consistent with the provisions of WR 2009-0033, WR 2010-0032-DWR, and the July 6, 2012 and July 1, 2013 State Water Board orders approving DWR and Reclamations' petitions for change to consolidate the authorized places of use of the SWP and CVP. No measureable effects on other legal users of water were noted from those transfers.

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 the water.

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

In accordance with Water Code section 1729, temporary changes involving transfer of water are exempt from the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) However, the State Water Board must consider potential impacts to fish, wildlife, or other instream beneficial uses in accordance with Water Code section 1727(b)(2).

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

The 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 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 affect streamflow.

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

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.

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 2010-0029.

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:

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 petitions filed for temporary change in the place of use, under DWR Permit 16479 and Reclamation License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973 and 12364 for transfer of 277,863 af of water are approved.

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

1. The transfer/exchanges of water are limited to the period commencing on May 1, 2014, and continuing for a one year period.
2. The place of use under DWR Permit 16479 is temporarily expanded to include portions of the CVP service area shown on 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 License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973 and 12364 is temporarily expanded to include portions of the SWP service area as *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use*, Map No.214-202-84.
4. Water transferred/exchanged pursuant to this Order shall be limited to 277,863 af within the following locations: (a) 130,000 af to SCVWD; (b) 3,000 af to OFWD and DPWD; (c) 10,660 af to

KCWA and KTWD; (d) 100,000 af to AEWS and MWDSC; (e) 32,553 af to KCWA and Westlands; (f) 850 af to the VA Cemetery; and (g) 800 af to Musco. 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 and exchanges identified and described in the subject petition and any south-of-Delta transfers or exchanges that meet the criteria set forth in conditions 7, 8, 9 and 10 of this order. In addition, this approval does not extend to any transfers under DWR's or Reclamation's water rights in excess of a total of 277,863 acre-feet. If a south-of-Delta transfer or exchange is not specifically identified and described in the petition, the transfer or exchange may occur only after the Deputy Director of Water Rights determines that the transfer or exchange will be implemented in accordance with the conditions of this order, including the time schedule in condition 1 and the criteria set forth in conditions 7 through 10. Requests for the Deputy Director of Water Rights approval of these transfers or exchanges will only be accepted on Mondays and must be received by 4:00 p.m. Petitioners should anticipate a determination on the requests no sooner than the Friday of the same week at 12:00 noon. 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.

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 this condition. 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.

6. DWR and Reclamation shall not increase their allocations of water to SCVWD, OFWD, DPWD, KCWA, KTWD, AEWS, MWDSC, Westlands, the VA Cemetery, and Musco beyond the quantities authorized by existing contract for purposes of this transfer/exchange.
7. Carriage loss shall be deducted from any water transferred through the Delta and delivered under this order.
8. The total quantity of water delivered to any SWP or CVP contractor under this order shall not exceed historic average deliveries to the contractor as stated in the attachments provided with the petition for change.
9. Transfers or exchanges under this order shall not result in the net decrease of San Joaquin River or Sacramento River flow over the period of the transfer. The transfer or exchange will not result in an increase in saline drainage to the San Joaquin River.
10. Transfers or exchanges shall not result in any increase in the amount of water diverted from the Delta. The water to be exchanged is part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta. Further, the water to be exchanged or transferred would have been consumptively used or stored in the absence of the transfer.
11. Within 90 days of the completion of the transfer; but no later than September 1, 2013, 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 volumes of transfer water delivered to SCVWD, OFWD, DPWD, KCWA, KTWD, AEWS, MWDSC, Westlands, the VA Cemetery, Musco 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, AEWS, MWDSC, Westlands, the VA Cemetery, Musco 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 an increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's permits beyond the quantities that would otherwise have been diverted absent the transfer.
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 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 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 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 Endangered Species Act for the temporary transfer authorized under this order.

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14. 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: MAR 28 2014