

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF SPECIFIED LICENSE AND PERMITS OF THE
STATE WATER PROJECT AND THE CENTRAL VALLEY PROJECT**

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

SOURCE: Sacramento – San Joaquin Delta

COUNTIES: Fresno, Imperial, Kern, Kings, Los Angeles, Madera, Merced, Orange,
Riverside, San Benito, San Bernardino, San Diego, San Joaquin,
San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, and
Ventura (SWP and CVP Places of Use)

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 OVERVIEW

On May 16, 2024, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (hereinafter jointly referred to as Petitioners) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), a Petition for Change Involving Water Transfers under Water Code Section 1725, et seq. With the petition, DWR requests a one-year modification of Permit 16479 and Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, to temporarily change the authorized place of use of: (1) the DWR permit to include the Central Valley Project (CVP) authorized place of use 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 Petitioners use the term “downstream” to identify that portion of the SWP and CVP that is served by water diverted from the Jones and Banks Pumping Plants. These areas are served via a system of canals and holding reservoirs under the Petitioners’ control. The maximum total exchange quantity requested is up to 428,300 acre-feet (af).

The changes requested will temporarily consolidate the SWP's and CVP's (hereinafter jointly referred to as the Projects') respective authorized places of use for the license and permits that are the subject of the petition.

Petitioners indicate that the changes will more effectively and efficiently utilize the operational flexibility of the combined Projects to supply water south of Banks and Jones (collectively, the Delta Pumps). The Petitioners also indicate that the changes will address physical and timing limitations, will reduce energy and conveyance costs, and/or will implement certain parts of the San Joaquin River Restoration Program. The Petitioners state that the requested changes will facilitate the delivery of available Project supplies that already have been exported south of the Sacramento-San Joaquin Delta (Delta) and will maximize the beneficial use of available supplies. The Petitioners indicate approval of the petition will not increase the quantity or alter the timing of diversions from the Delta or San Joaquin River.

The temporary changes would become effective on July 22, 2024 and would remain in effect for one year. The total exchange quantity consists of the exchanges detailed in Section 2.4 below. The SWP and CVP license and permits subject to the proposed changes are listed in the table below.

SWP Water Rights Subject to Temporary Change

Application Number	Permit (P) Number	Description
14443	P16479	Oroville Project

CVP Water Rights Subject to Temporary Change

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

On July 21, 2023, the State Water Board approved a similar petition filed by the Petitioners to exchange up to 405,785 af of water to primarily the same buyers. As of June 25, 2024, 107,749 af of water has been exchanged pursuant to the 2023 transfer.

2.0 SUBSTANCE OF TEMPORARY CHANGE PETITION

2.1 Existing Place of Use of Petitioners Water Rights

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

2.2 Place of Use under the Proposed Temporary Change Petition

In order to consolidate the SWP and CVP authorized places of use, the Petitioners have requested:

- 1) the temporary addition of the CVP service area downstream of Jones to the place of use under DWR's Permit 16479; and
- 2) the temporary addition of the SWP service area downstream of Banks to Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364.

These temporary additions would be for the purpose of completing the exchanges described below in Section 2.4 and would be effective for one year following the date the petition is approved. The areas to be added to the SWP are shown on Map No. 214-202-83 and the areas to be added to the CVP are shown on Map No. 214-202-84 submitted with the petition.

2.3 2024 Project Allocations

Petitioners indicate California has received near average precipitation and snow water content levels in Water Year 2024. According to Reclamation¹, only the Friant Class 1 contractors have been given a 100 percent allocation, which is not expected to change. Therefore, for 2024, the majority of Project contractors' demands exceed their Project supplies/allocations.

As of May 1, 2024, Project allocations were:

SWP south-of-Delta contractors: 40 percent
CVP south-of-Delta irrigation contractors: 40 percent

¹ <https://www.usbr.gov/newsroom/news-release/4810>

CVP south-of-Delta municipal and industrial contractors: 75 percent of Historic Use
CVP Friant contractors: 100 percent Class 1, 5 percent Class 2

For the San Joaquin River Restoration Program, Reclamation is currently forecasting a “Normal-Wet” water year type, expecting a total of 325,804 af to be used for Restoration Program purposes.

2.4 Exchanges Proposed

The petition identifies the possible exchanges enumerated below and the corresponding justification for each. On July 9, 2020, DWR and Reclamation submitted a memorandum with information regarding the use of water in the absence of the proposed exchanges, which has been incorporated into the descriptions of each exchange. This information is still pertinent and has been updated as applicable for the petition. All exchanges covered by this petition will occur south of the Delta and the total amount of water exchanged will not exceed 428,300 af. Note that for exchanges associated with a groundwater bank, the quantities listed below already account for banking losses (i.e., groundwater bank losses have already been subtracted from the quantity to be delivered pursuant to respective groundwater banking agreements). Petitioners state that banking losses are 10 percent in the Semitropic Water Storage District’s (Semitropic) groundwater bank, Arvin-Edison Water Storage District’s (Arvin-Edison) groundwater bank, Kern Bank, North Kern Bank, and West Kern Bank; and vary by program and range between 10 and 15 percent in Rosedale-Rio Bravo Water Storage District’s (Rosedale) groundwater bank.

Santa Clara Valley Water District

Santa Clara Valley Water District (Valley Water) contracts for water supplies from both SWP and CVP. DWR delivers SWP water to Valley Water through the South Bay Aqueduct (SBA) and Reclamation delivers CVP water to Valley Water from the San Luis Reservoir through the San Felipe Division. Valley Water has previously banked CVP water in Semitropic’s groundwater bank. Petitioners request the approval of up to 125,000 af of exchanges including: (1) exchange of up to 75,000 af of SWP and CVP water to address potential operational and maintenance issues in the San Felipe Division and SBA, and (2) exchange of up to 50,000 af of banked CVP water with SWP water.

Valley Water anticipates potential constraints on their operational flexibility to receive their CVP deliveries via the San Felipe Division. With the approval of the petition, during reduction of CVP deliveries from the San Felipe Division, DWR will export and deliver SWP water equivalent to the reduced CVP amount through SBA to Valley Water. Reclamation will return an equal amount of CVP water at the O’Neill Forebay to DWR for use within the SWP service area south of the O’Neill Forebay.

The SBA has experienced many unplanned outages over the last several years due to aging infrastructure, resulting in Valley Water being reliant on CVP deliveries to meet its demands. Valley Water anticipates unplanned shutdowns on the SBA may limit SWP deliveries to its service area. With the approval of the petition, Reclamation will export and deliver CVP water through the San Felipe Division to help Valley Water maintain its operational flexibility when there are reductions in SWP deliveries from the SBA. DWR will return an equal amount of SWP water to Reclamation for use within the CVP service area south of these facilities.

Valley Water has previously banked CVP water in Semitropic. With the approval of the petition, Semitropic will extract up to 50,000 af of Valley Water's banked CVP water from the aquifer and either: (a) pump the stored water into the California Aqueduct through Semitropic's turn-in facilities for delivery to the SWP service area south of Semitropic, or (b) use Valley Water's previously stored water within Semitropic's own service area. In exchange, DWR will deliver an equal amount of SWP water to Valley Water through either the SBA and/or the San Felipe Division from San Luis Reservoir. The proposed exchange would not increase the total amount of CVP or SWP water allocated to Valley Water by DWR or Reclamation.

Absent the petition, Valley Water's CVP supplies would be banked in Semitropic if storage capacity is available, or in another groundwater bank that has capacity. The SWP water to be exchanged would be supplied to other SWP contractors within existing allocations. Absent the exchange, DWR could enter into a Warren Act contract with Reclamation to supply SWP water through Pacheco Tunnel directly. Alternatively, the unused SWP supplies could be banked in Semitropic's groundwater bank if storage capacity is available or in another groundwater bank that has capacity.

The CVP water to be exchanged would be supplied to other south-of-Delta CVP contractors within their existing allocations. Absent the exchange, Semitropic would not be able to return Valley Water's CVP water directly, and Valley Water's CVP supplies would be returned via CVP-to-CVP exchanges under other existing CVP programs.

Kern County Water Agency

Kern County Water Agency (Kern County WA) is an SWP contractor with numerous member units within Kern County. Kern County WA is entirely inside the SWP place of use, while only some of its member units are inside the CVP place of use. The proposed exchanges between Kern County WA and other entities will be up to a total of 203,300 af under the actions listed below.

Kern County WA – Kern-Tulare Water District Exchange: Cross Valley Canal Capacity Limitations

Kern-Tulare Water District (Kern-Tulare) is within Kern County and has a contract for CVP water through the Cross Valley Canal (CVC). DWR will deliver up to 53,300 af of Kern County WA's SWP water to Kern-Tulare within the SWP place of use during the 2024 summer months. With the approval of the petition, Reclamation will return the same amount of Kern-Tulare's CVP water in later 2024 and/or early 2025 at O'Neill Forebay or other points of delivery as approved to Kern County WA.

Absent the proposed exchange, Kern-Tulare would use its CVP water at a later time, and Kern County WA would use its SWP water within its service area.

Kern County WA – Westlands Water District Exchange of Banked CVP Water in Semitropic's Groundwater Bank

Westlands Water District (Westlands), a CVP contractor outside of the SWP place of use, has stored CVP water in Semitropic's groundwater bank. DWR proposes to make available up to 23,000 af of Kern County WA's SWP water at O'Neill Forebay for Reclamation. Reclamation will then deliver this water to Westlands through the joint -use San Luis Canal. In return, an equivalent amount of Westlands's CVP water stored in Semitropic's groundwater bank will be delivered to Kern County WA for use in their service area.

Absent this proposed exchange, Westlands's CVP supplies stored in Semitropic would be returned via CVP-to-CVP exchanges under existing programs. Semitropic would retain its SWP water for use within its service area.

Kern County WA – Arvin-Edison Water Storage District San Joaquin River Restoration Program (SJRRP) Recaptured Water Exchange

Westside Mutual Water Company (Westside Mutual) holds lands in Kern County WA that are within the SWP place of use but outside the CVP place of use. Arvin-Edison is a CVP contractor with SJRRP Recaptured water stored in San Luis Reservoir. Arvin--Edison and Kern County WA propose an exchange of Project supplies to more efficiently manage their available water supplies and increase flexibility in timing and location of scheduling water.

Reclamation will make up to 20,000 af of Arvin-Edison's SJRRP Recaptured water available at the O'Neill Forebay for DWR's delivery to Kern County WA. In return, DWR will make available an equivalent amount of SWP water at the O'Neill Forebay for Reclamation to deliver to Arvin-Edison.

Absent the exchange, Kern County WA would use the SWP water at a later time. Arvin--Edison would either bank the water, use it in-district, or seek to exchange SJRRP Recaptured water with another party.

Kern County WA – Westlands Water District Exchange of Banked CVP Water in the Kern Water Bank

Wonderful Nut Orchards LLC (Wonderful), a part of Westside Mutual Water Company, is a landowner that farms in both Westlands and Kern County WA. Wonderful has previously banked CVP water in Kern Water Bank, which is located downstream of Westlands' service area. Therefore, recovery of Wonderful's stored CVP water in the Kern Water Bank to Westlands must be accomplished through an exchange. DWR will make up to 5,000 af of Kern County WA's SWP water available at O'Neill Forebay for Reclamation to deliver to Westlands. In exchange, the CVP water stored in the Kern Water Bank by Westlands will be used by Kern County WA.

Absent this exchange, Kern County WA will retain its SWP water for use within its service area and Westlands will seek supplemental water supplies or an exchange with another CVP contractor to effect return of the banked CVP water.

Kern County WA – Exchange of Banked CVP Water in the Rosedale Groundwater Bank

Rosedale-Rio Bravo Water Storage District (Rosedale) is a member unit of Kern County WA that receives SWP water. It operates a groundwater bank inside both the CVP and SWP place of use that stores CVP water, SWP water, and local water for its banking partners. Three of the banking partners (all SWP contractors) want to recover portion of water stored in Rosedale for up to 20,000 af: Santa Clarita Valley Water Agency (Santa Clarita) will recover previously stored SWP and Kern River water; Tulare Lake Basin Water Storage District (Tulare Lake Basin) will recover previously stored SWP water; and Irvine Ranch Water District (Irvine Ranch) will recover previously stored SWP and Kern River water.

With the approval of the petition, Santa Clarita, Tulare Lake Basin, and Irvine Ranch will transfer up to 20,000 af of their water stored in Rosedale's groundwater bank to Rosedale's CVP banking partners (Kern-Tulare, Delano-Earlimart Irrigation District (Delano-Earlimart ID), Arvin-Edison, and/or the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors)). In return, Reclamation will deliver an equivalent amount of CVP SJRRP Recaptured water (from the CVP banking partners) and/or CVP Delta water² (from Exchange Contractors) to DWR at the O'Neill Forebay for delivery to Santa Clarita, Tulare Lake Basin, and Irvine Ranch.

² Prior to construction of the CVP, water right holders near Fresno diverted irrigation water from the San Joaquin and North Fork Kings Rivers. The CVP involved construction of dams in the Central Valley along the Sacramento, American and

Absent the exchange, Rosedale's banked SWP water would be conveyed from the CVC to the California Aqueduct for delivery to Santa Clarita, Tulare Lake Basin, and Irvine Ranch. Absent the exchange, Kern-Tulare's, Delano-Earlimart ID's and Arvin-Edison's CVP SJRRP Recaptured water would be banked or transferred. Exchange Contractors' water would be conveyed through the Delta-Mendota Canal and Mendota Pool for delivery to the Exchange Contractors, or the Exchange Contractors would continue their consumptive use reduction actions and facilitate a different exchange.

Kern County WA – San Joaquin River Exchange Contractors Water Authority – Rosedale Unbalanced Exchange Program

From 2017 through 2023, the Exchange Contractors and Rosedale entered into an unbalanced (2:1) exchange program. The Exchange Contractors delivered 40,000 af of its CVP water to lands within Rosedale's service area in the CVP place of use for banking and direct use. Rosedale has returned 5,015 af to date. To make up for the exchange, Rosedale will forego up to 7,500 af of its SWP water and DWR will make this water available at the O'Neill Forebay for Reclamation to deliver to the Exchange Contractors and/or the Exchange Contractors' partners throughout the CVP place of use.

Absent this exchange, Rosedale would either bank its SWP water or use it in its service area. This exchange will not result in additional return flows to the San Joaquin River. The Exchange Contractors have reduced consumptive use to make exchange water available and may also use the return water to irrigate their lands that otherwise would have been irrigated by groundwater, resulting in less or the same amount of return flows, with or without the exchange.

Kern County WA – Kern-Tulare Water District Exchange of Banked CVP Water in the West Kern and Rosedale Groundwater Banks; Facilitation of a non-Project Transfer to Westlands Water District

Kern-Tulare, a CVP contractor outside of the SWP place of use, has stored CVP water in the West Kern and Rosedale Groundwater Banks. Both Banks are member units of

San Joaquin Rivers. When Friant Dam (north of Fresno) was constructed, downstream water rights holders formed a group called the Exchange Contractors and agreed to "exchange" where they receive their pre-1914 appropriative and riparian water from the San Joaquin and Kings Rivers for guaranteed deliveries of "substitute" water from the Sacramento River by means of the Delta-Mendota Canal and other facilities of Reclamation. This water is referred to as CVP (Exchange Contractors) water or Exchange Contractors' Settlement water. The Exchange Contractors also agreed not to exercise their San Joaquin and Kings River water rights if guaranteed water deliveries continued through the Delta-Mendota Canal and other facilities of Reclamation. In the event that Reclamation is unable to make its contracted deliveries of substitute water to the Exchange Contractors, the Exchange Contractors have reserved the right to receive their water from the San Joaquin River to satisfy their historic rights.

Kern County WA within the SWP place of use. Westlands, a CVP contractor, has acquired 3,000 af of CVP Friant water and/or pre-1914 Kings River water from Fresno Irrigation District (Fresno ID), but this water cannot be directly conveyed to Westlands.

To facilitate this transfer and the return of banked water, a three-way exchange is proposed. Fresno ID will make its pre-1914 Kings River water available for transfer through groundwater substitution. Reclamation will deliver up to 3,000 af of CVP Friant water and/or Kings River water from Fresno ID to Kern-Tulare, who can physically take delivery of the water through the Friant-Kern Canal.

With the approval of the petition, DWR will deliver up to 3,000 af of Kern County WA's SWP water to Westlands, and Kern County WA will use an equivalent amount of Kern-Tulare's banked CVP water within its service area.

Absent the exchange, Kern County WA's SWP water would be conveyed from the California Aqueduct for delivery to its service area. Kern-Tulare's previously banked CVP water would be recovered and conveyed to the Friant-Kern Canal from the CVC for Kern-Tulare's in-district use. Westlands would not receive water from Fresno ID. Fresno ID would consumptively use its CVP and Kings River water, transfer the Kings River water, or exchange the water with another entity.

Kern County WA – Pixley Irrigation District and Lower Tule River Irrigation District - Tulare Irrigation District, Porterville Irrigation District, and Saucelito Irrigation District

Homer, LLC (Homer) owns farmland in Kern County WA and in these CVP contractors' service areas: Pixley Irrigation District (Pixley), Lower Tule River Irrigation District (Lower Tule), Tulare Irrigation District (Tulare ID), Porterville Irrigation District (Porterville), and Saucelito Irrigation District (Saucelito). Homer receives Kaweah River water in the CVP place of use under the Wutchumna Water Company's pre-1914 water right.

Porterville has previously banked CVP water in a private banking facility within Porterville. Porterville and Saucelito also receive pre-1914 Tule River water.

Homer proposes to transfer Kaweah River water, received under Wutchumna Water Company's pre-1914 water right, to Tulare ID, Porterville, and Saucelito. In exchange, Tulare ID, Porterville, and Saucelito will transfer/make available an equivalent amount of pre-1914 Tule River and CVP Friant water to Pixley and Lower Tule. Pre-1914 water transfers/exchanges do not require State Water Board approval.

With this approval, Reclamation will make available up to 50,000 af of Pixley and Lower Tule's CVP CVC water at O'Neill Forebay for DWR to deliver to Kern County WA.

Pixley and Lower Tule receive CVP Friant water and CVC water. Absent this proposed exchange, Pixley and Lower Tule would exchange their CVC water with other CVP

contractors. Kern County WA would consumptively use its SWP water. Tulare ID, Porterville, and Saucelito would consumptively use their Tule River and/or CVP water supplies or leave those supplies in existing storage reservoirs.

Kern County WA – SJRRP CVP Water Contractors – Shafter-Wasco Irrigation District

Porterville Irrigation District, Saucelito Irrigation District, Stone Coral Irrigation District, Fresno Irrigation District, Southern San Joaquin Municipal Utility District, Ivanhoe Irrigation District, and Exeter Irrigation District (collectively referred to here as SJRRP Districts) and Shafter-Wasco Irrigation District (Shafter-Wasco) are Friant Unit contractors with Friant Recaptured and Recirculated CVP water as part of the SJRRP. The SJRRP Districts are unable to take delivery of their SJRRP CVP water supplies in San Luis Reservoir as no infrastructure currently exists to allow for delivery to each district. Westside Mutual is a landowner within Kern County WA with lands outside of the CVP place of use but within the SWP place of use. Westside Mutual has Wutchumna Water Company's pre-1914 Kaweah River water banked in North Kern groundwater bank; however, there are no conveyance facilities that would allow Westside Mutual to recover and deliver the banked water to its lands within Kern County WA.

Under this proposed three-way exchange, Westside Mutual will recover up to 5,000 acre-feet of its previously banked Kaweah River water in North Kern's groundwater bank for delivery to Shafter-Wasco for use in-district. Shafter-Wasco will provide a like amount of Friant Class 1 and/or Class 2 water supplies to Millerton Lake for the SJRRP Districts. (These actions do not require State Water Board approval.) In exchange, with the approval of this petition, Reclamation will make up to 5,000 af of SJRRP Districts' SJRRP CVP water available at O'Neill Forebay for DWR to deliver to Kern County WA via the California Aqueduct.

Absent this exchange, the SJRRP Districts' CVP water would remain in San Luis Reservoir pending additional exchange opportunities. Westside Mutual's banked Kaweah River water would remain in North Kern's groundwater bank and Westside Mutual would be forced to obtain supplemental supplies for use on their lands in Kern County WA. Shafter-Wasco would continue to use its Friant Class 1 and/or Class 2 water supplies in-district.

Kern County WA – Shafter-Wasco Irrigation District SJRRP CVP Supplies

Shafter-Wasco has SJRRP CVP water in San Luis Reservoir that it is unable to deliver in-district due to conveyance constraints. Westside Mutual is a landowner within Kern County WA with lands outside of the CVP place of use but within the SWP place of use. Westside Mutual has Wutchumna Water Company's pre-1914 Kaweah River water banked in North Kern groundwater bank; however, there are no conveyance facilities that would allow Westside Mutual to recover and deliver the banked water to its lands within Kern County WA.

This exchange will provide operational flexibility by allowing Shafter-Wasco to take direct delivery of up to 2,000 af of Westside Mutual's pre-1914 Kaweah River water banked in North Kern Water Storage District's groundwater banking project. Since this exchange involves pre-1914 water, it does not require State Water Board approval. In exchange, with the approval of this petition, Reclamation will make available an equivalent amount of Shafter-Wasco's SJRRP CVP water at O'Neill Forebay for DWR to deliver to Kern County WA.

Absent this exchange, Shafter-Wasco will seek deals with other entities to exchange or sell its SJRRP CVP water in San Luis Reservoir; Westside Mutual's Kaweah River water will remain in North Kern groundwater bank; and Westside Mutual will need to secure other supplies to meet demands in its lands within Kern County WA.

Kern County WA – Kern-Tulare Water District - Tulare Irrigation District – Lindsay-Strathmore Irrigation District

Kern-Tulare Water District (Kern-Tulare) is a Cross Valley Canal CVP contractor and has previously banked CVP water in West Kern Water District's groundwater banking program. Tulare ID and Lindsay-Strathmore are CVP Friant Unit contractors. Westside Mutual holds lands within the SWP place of use but outside of the CVP place of use, and one of its members (Wuchumna Water Company) holds a pre-1914 water right for Kaweah River water.

Under a three-way exchange, Westside Mutual will deliver up to 3,500 af of its Kaweah River water to Tulare ID and Lindsay-Strathmore. (This action does not require State Water Board approval.) Reclamation will deliver an equivalent amount of Tulare ID and Lindsay-Strathmore's Friant CVP water supplies from Millerton Lake to Kern-Tulare. In exchange, Kern-Tulare will recover and deliver up to 3,500 acre-feet of previously banked CVP water in West Kern's groundwater bank for Kern County WA to use within its service area.

Absent this exchange, Westside Mutual would retain the Kaweah River water for exchange with other entities. Tulare ID and Lindsay-Strathmore would consumptively use their CVP Friant supplies in-district. Kern-Tulare's previously banked CVP water would be recovered and conveyed to the Cross Valley Canal and into the Friant-Kern Canal for delivery to Kern-Tulare for in-district use. Westside Mutual would be forced to acquire supplemental water supplies to meet existing demands in Kern County WA.

Kern County WA –Tulare Irrigation District – Lindsay-Strathmore Irrigation District – Lower Tule River Irrigation District – Pixley Irrigation District

Lower Tule and Pixley are Cross Valley Channel CVP contractors. Westside Mutual is a landowner within Kern County WA with lands within the SWP place of use but outside of the CVP place of use. Westside Mutual has access to pre-1914 Kaweah River water

through its member unit Wutchumna Water Company. Tulare ID and Lindsay-Strathmore are CVP Friant Unit contractors.

Under a three-way exchange, Reclamation will deliver up to 5,000 af of Tulare ID and Lindsay-Strathmore's CVP Friant water supplies from Millerton Lake to Lower Tule River ID and Pixley ID. Westside Mutual will transfer up to 5,000 af of its pre-1914 Kaweah River water to Tulare ID and Lindsay-Strathmore. Since this exchange involves pre-1914 water, it does not require State Water Board approval. In exchange, with approval of this petition, Reclamation will make an equivalent amount of Lower Tule and Pixley's CVC CVP water available at O'Neill Forebay for DWR to deliver to Kern County WA for use within its service area or for banking in the Kern Water Bank.

Absent this exchange, Westside Mutual would retain the Kaweah River water for exchange with other entities. Tulare ID and Lindsay-Strathmore would consumptively use their CVP Friant supplies in-district. Lower Tule and Pixley would have to find other ways to exchange their Cross Valley CVP water supplies. Westside Mutual, a landowner in Kern County WA, would be forced to acquire supplemental water supplies to meet existing demands.

San Luis Water District Exchange of CVP Water to Kern County Water Agency

Westside Mutual is a landowner within Kern County WA with lands within SWP place of use but outside of CVP places of use. San Luis Water District (San Luis WD) is a CVP contractor. With the approval of this Petition, Reclamation will deliver up to 6,000 af of San Luis WD's CVP water to Kern County WA. In exchange, DWR will deliver an equivalent amount of Kern County WA's SWP water to San Luis WD. This exchange would increase operational flexibility for San Luis WD and Kern County WA to schedule water deliveries during the year. Absent this exchange, San Luis WD will retain its CVP water for use within its service area, and Westside Mutual would seek supplemental water supplies when its demand exceeds SWP supplies.

Arvin-Edison – Metropolitan Water District Program

Metropolitan Water District (Metropolitan) is an SWP contractor. Arvin-Edison is a CVP contractor within both the CVP and SWP place of use. Petitioners propose to expand the CVP place of use to include Metropolitan's service area, which would allow Arvin-Edison to exchange up to 100,000 af of CVP water supplies (SJRRP Recaptured and Friant) with Metropolitan's SWP water.

The following conveyance mechanisms would take place for Metropolitan to receive Arvin-Edison's CVP water:

- 1) Arvin-Edison's CVP Friant water (including other CVP Friant water acquired by Arvin-Edison) would be conveyed either: (a) from the Friant-Kern Canal through Arvin-Edison's distribution system connected to the California

Aqueduct at Milepost 227 (Reach 14C), or (b) from the Friant-Kern Canal through the CVC to the California Aqueduct (Tupman); or

- 2) Reclamation will make Arvin-Edison's CVP SJRRP Recaptured water (including other CVP water acquired by Arvin-Edison) available at the O'Neill Forebay for DWR to deliver through the California Aqueduct to Metropolitan.

Currently, depending on annual SWP allocations, Metropolitan stores a portion of its SWP supply in Arvin-Edison's groundwater banking facilities, which are located within Arvin-Edison's service area. When requested by Metropolitan, Arvin-Edison is obligated to return Metropolitan's previously banked SWP water to Metropolitan. Absent this proposed exchange, Arvin-Edison would return previously banked SWP water through groundwater extraction and deliver the water to Metropolitan through the California Aqueduct.

To increase the flexibility of returning water to Metropolitan, Petitioners propose that Arvin-Edison exchange Metropolitan's previously banked water with their CVP water supplies. Arvin-Edison would use Metropolitan's previously banked SWP water within its service area. With approval of this petition, Reclamation will deliver Arvin-Edison's CVP water supplies to Metropolitan for use in their service area in lieu of Arvin-Edison physically extracting and delivering Metropolitan's previously stored SWP water. Upon delivery of Arvin-Edison's CVP water to Metropolitan, Metropolitan will then transfer an equivalent amount of its stored SWP water in the groundwater bank to Arvin-Edison for Arvin-Edison's use.

Petitioners also propose that Metropolitan take delivery of Arvin-Edison's CVP water and later return SWP water from San Luis Reservoir to reduce the energy usage associated with Arvin-Edison's underground storage and subsequent withdrawal of CVP supplies. Petitioners propose to exchange Arvin-Edison's Friant Division Supply with Metropolitan to effectuate delivery of water to meet Exchange Contractor demands that would otherwise be delivered from Millerton Lake on the San Joaquin River.

Finally, to reduce the risk of spill and subsequent potential loss of water supplies, Arvin-Edison proposes to exchange their CVP water with Metropolitan's SWP water. Metropolitan would assist Arvin-Edison in regulating the available CVP supplies. Metropolitan would return a lesser amount (i.e., two af for every three af received). In the absence of the exchange with Metropolitan, Arvin-Edison would deliver the available CVP contract supplies to groundwater banking programs within the Arvin-Edison service area or other areas that are within the CVP place of use.

Absent the exchange, Arvin-Edison would extract Metropolitan's banked SWP supplies and return them directly at a return rate limited to 170 cfs. Arvin-Edison would consumptively use its CVP water within its service area, bank it, or transfer it under the

CVP's Accelerated Water Transfer Program³. Absent the exchange, Arvin-Edison would seek to reschedule CVP supplies in CVP reservoirs, transfer, exchange, or bank with other approved banking programs subject to storage capacity. Metropolitan only assists Arvin-Edison with regulation of Arvin-Edison's CVP supplies when San Luis Reservoir is full.

Potential Additional Exchanges

The above exchanges include the specific exchanges requested as of the date of the petition. However, the Petitioners anticipate that additional exchanges may be developed. The Petitioners request that any order approving this petition include the approval of potential future projects that meet certain specific criteria. To assist 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 exchanges listed above would be conducted in accordance with the following criteria:

1. The 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 would have been consumptively used or stored in the absence of the exchange.
3. The total quantity of water delivered to SWP or CVP contractors as a result of the exchange will not exceed historic average deliveries.
4. The exchange will not result in a net loss of San Joaquin River or Sacramento River flow.
5. The exchange will not result in an increase in saline drainage to the San Joaquin River.
6. Prior to initiating any exchange not specifically listed above, DWR or Reclamation will provide the State Water Board with a description of the proposed 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 exchanged under the provisions of any order approving the petition. The reporting plan will

³ The CVP's Accelerated Water Transfer Program involves annual water transfers and/or exchanges by water contractors in the same geographical area in order to meet agricultural demands, municipal or industrial demands, or other water requirements, pursuant to Section 3405(a) of the Central Valley Project Improvement Act. No additional environmental analysis would be needed. For additional information, see: https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=48244.

include the parties to the exchange, how much water was to be exchanged, how the water was made available, locations where groundwater levels or percolation to groundwater may be affected, and the facilities required to affect the exchange.

2.5 Additional Information for the Petition

On July 9, 2020, DWR and Reclamation submitted a memorandum regarding the use of water in the absence of the proposed exchanges, as requested by the State Water Board during its review of a similar petition in 2020. The response included both general information, which is summarized below, and information specific to each 2020 exchange. The general information is still pertinent, with incorporation of the updated information provided in the current petition, and applicable information has been updated for this transfer year.

Petitioners stated that Project allocations are based on the annual water supply available to SWP and CVP contractors. These allocations are focused on the ability to meet summer irrigation demands while meeting regulatory requirements and accounting for upstream storage and hydrologic conditions. Petitioners also stated that the Delta Pumps are operated at their maximum allowable rates and that this rate is always insufficient to meet peak summer irrigation demand. This insufficiency is addressed by operating San Luis Reservoir to augment Delta pumping to meet these demands. SWP has 21 south-of-Delta contractors that have contract amounts totaling 4,056,205 af, while the CVP has contracts with 43 entities south-of-Delta that total 2,112,898 af. For contract year 2024, which ends in either December of 2024 or February 2025 depending on the contract, the SWP allocation is 40 percent, the CVP irrigation allocation is 40 percent and the CVP municipal and industrial allocation is 75 percent.

The Petitioners also stated that Joint Points of Diversion (JPOD) was approved in 2001⁴ through State Water Board Revised Decision 1641 (D-1641) as a means for Reclamation to use the Banks pumping plant to increase its options in supplying water to its contractors. However, JPOD is subject to capacity availability in the California Aqueduct. The proposed exchanges are an alternative pathway to deliver water under Reclamation's water rights. This alternative pathway of relying on exchanges applies to Valley Water. The Petitioners also describe exchanges as a way to return surface water banked in groundwater banks. Absent exchanges, groundwater bank operators would be simultaneously withdrawing banked surface water and conveying it through Project facilities to their clients while receiving their own Project water supplies to irrigate. With

⁴ JPOD allows DWR and Reclamation to use each other's points of diversion in the Delta to divert or redivert water under three stages. All stages of JPOD are subject to the following requirements or preconditions: JPOD is not authorized when the Delta is in excess conditions; JPOD cannot cause specified shifts in the location of X2; the development and implementation of an approved Water Level and Water Quality Response Plan to protect Delta water users; and compliance with all other provisions of DWR's and Reclamation's permits.

an exchange, surface water can be delivered to another entity and previously banked groundwater can remain in place for use within the groundwater bank service area. The banked surface water must ultimately be used according to the purpose and place of its originating water rights; this petition addresses circumstances where the groundwater banker is in one place of use and the water user is in another.

Petitioners stated Reclamation has an approved five-year accelerated water transfer program for all CVP contractors included in its petition except Valley Water. The Accelerated Water Transfer Program allows unused allocations to be transferred to other CVP contractors within the same basin. This program was analyzed in an Environmental Assessment titled "South-of-Delta Accelerated Water Transfer Program Contract Years 2021-2025".

Federal facilities have authority to facilitate groundwater banking of surface water supplies. All south-of-Delta CVP contracts allow groundwater banking of allocated supplies upon approval of the Contracting Officer. Groundwater banks must meet Reclamation guidelines and comply with the National Environmental Policy Act. Approved banks include those in this petition. These existing programs and groundwater banks have been approved, and thus CVP contractors can immediately access these programs if they are unable to directly apply their CVP water within their service areas. The CVP contractors would rely on these programs without the approval of this petition.

The water proposed to be exchanged would be consumptively used with or without the approval of the petition due to the extent and locations of existing demand, and existing approved programs.

3.0 PUBLIC NOTICE AND COMMENTS

The Division noticed Petitioners' petition on May 24, 2024, to the Division's website and via the State Water Board's electronic subscription mailing list and written mailing list pursuant to Water Code section 1726, subdivision (d).

Timely comments on the proposed transfer were received from the Central Delta Water Agency (CDWA) and the Placer County Water Agency/El Dorado Irrigation District (PCWA/EID). Petitioners provided responses to these comments to the Division on July 3, 2024 and July 8, 2024, respectively. These comments and responses of Petitioners and the State Water Board are briefly summarized below.

3.1 Comments by CDWA

On June 24, 2024, CDWA filed a comment letter on the petition. CDWA stated that the Petitioners have not met the requirements of Water Code section 1728, subdivision (c), in establishing a prima facie case that the proposed temporary change will not injure

other legal users of water through significant changes in water quality. CDWA claimed that based on monitoring and reporting conditions in previous orders approving transfer petitions for consolidating the Projects' place of use (CPOU), the State Water Board should be in receipt of 168 monitoring reports regarding CPOU transfers since 2009 and that the Petitioners should have utilized water quality monitoring data from the reports to make the prima facie case of no injury to other legal users of water. CDWA also stated that since Order WR 2009-0033⁵ was issued, D-1641 salinity objective at Old River Tracy has been exceeded in ten years from 2009 through 2022. CDWA implied that CPOU transfers throughout that period contributed to the salinity objective violations and therefore the Petitioners should not be able to claim that the current CPOU transfer will not injure other legal users of water.

CDWA also noted that there has been a decline of Delta smelt since 2009 and CDWA appeared to link that decline to effects from previous CPOU transfers. CDWA argued that the petition should have included a detailed quantitative assessment again based on data from previously submitted CPOU transfer monitoring reports to ensure the proposed transfer will cause no unreasonable harm to fish, wildlife and other instream beneficial uses as required pursuant to Water Code section 1728 subdivision (c).

CDWA also claimed that approving the Petitioners' proposed additional unspecified transfers/exchanges beyond the specific transfers/exchanges described in the petition would not be consistent with Water Code section 1726 subsections (a) through (f).

In addition, CDWA provided numerous comments that were previously included in its comment letters on similar petitions for consolidating the Projects' place of use (CPOU petitions) filed in 2023, 2022, 2021, and 2020. The State Water Board addressed those comments in Orders dated July 21, 2023, July 22, 2022, July 14, 2021, and July 15, 2020.

Petitioners' Response

The Petitioners responded that they have complied with all reporting requirements of Order WR 2009-0033 and subsequent annual temporary transfer CPOU orders issued since 2010 and all required reports have been submitted to the State Water Board. The Petitioners stated that they provided evidence to support the State Water Board's necessary findings pursuant to Water Code sections 1725 and 1728 subdivision (b) in pages 16 through 18 of the petition supplement. The Petitioners indicated that the water to be exchanged/transferred was previously diverted or will be diverted in conformance with the provisions of the Petitioners' water rights and all regulatory restrictions governing those diversions, including those contained in D-1641. The proposed exchanges will only occur south of the Delta and will not affect pumping from the Delta. There will be no change in the pumping schedule or the amount of SWP or CVP water

⁵ Order WR 2009-0033 was issued by the State Water Board on May 19, 2009 and conditionally approved the temporary consolidation of the place of use of the CVP and SWP.

diverted at the Banks or Jones pumping plants. Therefore, there will be no change in flow or water quality conditions in the Delta as a result of the proposed transfer/exchange. The Petitioners also stated that they have reported each past exceedance of D-1641 objectives including the reasons for the exceedances, but the proposed CPOU south-of-Delta exchanges did not and will not cause exceedances of D-1641 objectives.

The Petitioners explained that any additional exchanges requested with the petition will be subject to the State Water Board's approval and be limited to the same criteria set forth for the exchanges as specifically described in the petition.

State Water Board Response

CDWA stated that the Petitioners were required to submit monthly reports containing quantitative data regarding the amount and quality of water proposed for transfer/exchange to the State Water Board pursuant to previous CPOU transfer approval orders. CDWA claimed that the Petitioners should use information and data from the monthly reports to evaluate the effect of the proposed CPOU transfer to other legal users of water or to fish, wildlife, and other instream beneficial uses. The Petitioners have electronically submitted monthly reports pursuant to the CPOU transfer orders since 2016. Although Order WR 2009-0033 required the Petitioners to provide salinity information relative to transferred water, none of the subsequent orders approving CPOU transfers included this requirement. CDWA did not provide specific evidence to substantiate a link between previous CPOU transfers and negative impacts to water quality, fish and wildlife, or other beneficial uses. Therefore, the State Water Board considers the information provided in the petition adequate relative to the requirements of Water Code section 1428 (c), as also detailed in the Petitioners' response to CDWA's comments.

Further, as conditioned in this Order, the proposed change would not result in a change in the quantity or timing of diversions from the Delta or any associated impacts to aquatic resources in the Delta or substantial changes to the quantity or quality of return flows to the Delta. This Order is conditioned such that: (1) no additional pumping from the Delta is allowed; and (2) the Petitioners must comply with D-1641 and all applicable Water Right Orders, Biological Opinions, Incidental Take Permits, and court orders.

This Order contains a condition requiring that south-of-Delta exchanges not specifically identified and described in this Order may occur only after the Deputy Director for Water Rights determines that the exchange will be implemented in accordance with the conditions of this Order. The Petitioners included in the petition the request to potentially allow additional exchanges although they were unable to confirm specific additional exchanges at the time the petition was filed. However, the Petitioners acknowledged that the proposed additional exchanges must meet all conditions in the Order and must receive individual approval by the State Water Board.

To the extent CDWA's 2023, 2022, 2021 and 2020 comments remain applicable to the transfers or exchanges proposed in the petition, the State Water Board will not re-address those issues in this Order and hereby incorporates by reference the comment responses contained in the aforementioned 2023, 2022, 2021, and 2020 Orders.

3.2 Comments by PCWA and EID

On June 21, 2024, PCWA and EID jointly filed a comment letter on the petition.

PCWA and EID assert that the proposed transfer will create a "hole" in CVP and SWP reservoirs that will likely affect Project storage and could adversely affect PCWA's and EID's ability to operate their reservoirs and/or satisfy outstanding refill agreement requirements that PCWA and EID have with the Petitioners. PCWA and EID theorized that refilling CVP and SWP reservoirs following the proposed transfer could potentially prevent the Delta from going into an excess condition or cause balanced conditions⁶. PCWA and EID stated that upstream operations and refill are often tied to Delta conditions through the Petitioners' refill agreements, and conditions should be included in any order approving the Petitioners' proposed transfer to ensure the proposed transfer does not adversely affect upstream reservoir operations and the ability to refill PCWA or EID reservoirs. PCWA and EID have requested that any order approving the proposed transfer include the following conditions to protect PCWA's and EID's water rights:

- The transfer shall be contingent on a refill agreement between PCWA/EID and the Petitioners.
- The transfer shall be carried out in compliance with all existing regulatory constraints in the Delta and shall not cause harm to other legal users of water or impact water quality.
- No water can be transferred unless Reclamation demonstrates that the transfer will not result in increased risks of negative impacts to the cold-water pool at Folsom Reservoir resulting from transfer releases.

PCWA and EID stated that at a minimum the Petitioners should be prohibited from refilling the storage space vacated as a result of the proposed transfer unless PCWA and EID have refilled their reservoirs to ensure the proposed transfer does not injure PCWA or EID.

⁶ Balanced water conditions occur when upstream releases plus unregulated flows equal the water supply needed to meet in-basin uses plus CVP and SWP Delta diversions, which include withdrawals under CVP and SWP water right permits at the Jones Pumping Plant, the Banks Pumping Plant, the Contra Costa Canal Pumping Plant #1, and the North Bay Aqueduct.

Petitioners' Response

The Petitioners responded by letter dated July 8, 2024 and indicated that the temporary transfer proposed with the CPOU petition does not involve a reoperation of any CVP or SWP reservoir upstream of PCWA, EID, or the Delta. The water that will be used to carry out the exchanges described in the petition has already been diverted from the Delta and stored in San Luis Reservoir. No additional releases of water from storage in upstream CVP or SWP reservoirs are required to effectuate the exchanges described in the CPOU petition. The Petitioners stated that in the absence of the proposed exchanges, the available water supplies would be consumptively used or stored in existing south-of-Delta SWP or CVP storage facilities and the proposed exchanges will not change or affect decisions regarding SWP or CVP upstream operations. Also, Reclamation can only make transfers of water possible by reduction in consumptive use under section 3405(a)(1)(1) of the Central Valley Project Improvement Act, consequently Reclamation cannot transfer water via reservoir reoperation. In summary, the Petitioners stated no reoperation involving refill of any CVP or SWP reservoir, including Folsom Reservoir, will take place that could prevent the Delta from going into an excess condition or cause balanced conditions.

State Water Board Response

As the Petitioners described, there will be no reoperation of upstream reservoirs, including Folsom Reservoir, to effectuate the transfer/exchange of water proposed with the CPOU petition. The proposed transfer would not result in any additional releases of water from storage in upstream CVP or SWP reservoirs or result in a net increase in diversions from the Delta. Consequently, there will be no hole to fill in upstream reservoirs that could potentially impact Delta conditions thereby potentially affecting PCWA's refill of Weber Reservoir under their refill agreement with the Petitioners. Therefore, the proposed CPOU transfer/exchange of water will not injure either PCWA's and EID's ability to refill their upstream reservoirs pursuant to any refill agreements with the Petitioners.

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

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

- a. The proposed changes would not injure any legal user of the water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed changes, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.
- b. The proposed changes would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1728, 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, § 1725.5, subd. (b).) “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 § 1728, subdivision (b)(2).

6.0 REQUIRED FINDINGS OF FACT

The following discussion and findings are applicable to the exchanges proposed in the petition including: (a) 125,000 af to Valley Water; (b) 203,300 af to various Kern County WA exchanges; and (c) 100,000 af to Arvin-Edison-Metropolitan.

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

Before approving a temporary change due to an 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 exchange would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary

change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1725.5, 1726.) Water Code Section 1725.5 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.”

According to the petition and the additional information provided by the Petitioners, and as conditioned, the temporary changes proposed will not result in the diversion of additional water from the Delta or the delivery of more water to any individual water supplier or user than has been delivered historically. The exchanges proposed in the petition, including any potential future exchanges meeting the criteria outlined above, involve water that is part of the SWP or CVP contractors allocated supplies, and would be consumptively used or stored in the absence of the exchanges. Additionally, for each exchange described, the Petitioners have represented to the State Water Board that there are no operational constraints to divert and use the exchanged water in the existing place of use in the absence of the petition.

The exchanges are expected to allow agencies experiencing water supply restrictions to recover previously stored water or to optimize the beneficial use of their existing limited water supplies. The water proposed for exchange consists of either:

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

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

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

6.2 No Injury to Other Legal Users of the Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the temporary change would not injure any legal user of the water during any potential hydrologic condition that the State Water Board determines is likely

to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1728, subd. (b)(1).)

As conditioned, the changes approved in this Order will not result in any measurable changes to streamflow, water quality, timing of diversion or use, or return flows. The water to be exchanged is diverted out of the watershed from which it originates in conformance with the provisions of the respective water right license or permit(s) 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 differ. The scheduling of the deliveries will be coordinated between Petitioners to ensure there is no adverse impact on any SWP or CVP contractor deliveries. The Petitioners indicate that adequate capacity in the California Aqueduct and in the Delta-Mendota Canal is available and will not be adversely impacted by the exchanges.

The exchanges are not expected to result in a measurable change in the quantity or quality of return flows. As conditioned, there will be no increase in either SWP or CVP diversions or allocations as a result of the proposed exchanges. There could be some shift in the timing of deliveries of SWP and CVP supplies that already have been exported from the Delta. Exchanges similar to those proposed above have occurred annually since 2009, except for 2011, consistent with the provisions in State Water Board Orders⁷ approving DWR's and Reclamation's petitions for change to consolidate the authorized places of use of the SWP and CVP. No measurable effects on other legal users of water were noted from those exchanges.

In light of the above, I find in accordance with Water Code section 1728, subdivision (b)(1), that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not injure any legal user of water.

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

Before approving a temporary change in order to facilitate a transfer or exchange of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1728, subd. (b)(2).) In accordance with California Code of Regulations, Title 23, section 794

⁷ Previous Orders approving similar CPOU exchanges are available on the State Water Board's website:

https://waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_orders/

(c), Petitioners provided California Department of Fish and Wildlife (CDFW) and the Central Valley Water Board with a copy of the petition. CDFW and the Central Valley Water Board did not respond with any information regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

As conditioned, there will be no change in the amount of SWP or CVP water diverted at Banks or Jones. Therefore, no associated change in flow or water quality conditions in the Delta should result from the changes proposed in the petition. All water exported at Banks and Jones is required to be pumped consistent with the applicable regulatory restrictions and court orders 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 that already have been exported south of the Delta; however, this will not significantly affect streamflow.

Exchanges similar to those proposed above have been implemented in previous years by both DWR and Reclamation. No measurable effects on fish, wildlife or other instream beneficial uses were noted from those exchanges. In light of the above, I find in accordance with Water Code section 1728, subdivision (b)(2) that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not unreasonably affect fish, wildlife, or other instream beneficial uses.

7.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in Section 4.4.2 of Resolution 2012-0029 and the Deputy Director for Water Rights redelegation of authority dated April 20, 2023.

8.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1728, and therefore I find as follows regarding DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, for each of the following exchanges proposed in the petition: (a) 125,000 af to Valley Water; (b) 203,300 af for various Kern County WA exchanges; and (c) 100,000 af to Arvin-Edison-Metropolitan.

I conclude that, based on the available evidence:

1. The proposed exchange involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of the water.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition for change involving water transfers filed for temporary change in the place of use, under DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 for exchange of up to 428,300 af of water is approved.

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

1. The exchanges of water are limited to the period beginning on July 22, 2024, and continuing for up to one year.
2. The place of use under DWR's Permit 16479 is temporarily expanded to include portions of the CVP service area shown on the map titled *Map 2: Areas to be added to SWP Authorized Place of Use*, Map No. 214-202-83.
3. The place of use under Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 is temporarily expanded to include portions of the SWP service area as shown on the map titled *Map 1: Areas to be added to CVP Authorized Place of Use*, Map No. 214-202-84.
4. Water exchanged pursuant to this Order shall be limited to a maximum quantity of 428,300 af as follows: (a) 125,000 af to Valley Water; (b) 203,300 af to various Kern County WA exchanges; and (c) 100,000 af to Arvin-Edison-Metropolitan.
5. This approval is limited to the exchanges described in this Order and only those additional south-of-Delta exchanges that meet the criteria set forth in this Order and which receive the additional State Water Board approval required by this Order. This approval does not extend to any exchanges under DWR's or Reclamation's water rights in excess of the total of 428,300 af authorized under this Order. The exchanges identified in this Order and any future exchanges are limited as follows:
 - 1) the exchanges shall not result in any increase in the amount of water diverted from the Delta or in an increase in Project contract allocations;
 - 2) the water to be exchanged shall be part of available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta;
 - 3) the water to be exchanged must be water that would have been consumptively used or stored in the absence of the transfer;
 - 4) the total quantity of water delivered to SWP or CVP contractors as a result of the exchange shall not exceed historic average deliveries;
 - 5) the exchange shall not result in the net loss of San Joaquin

River or Sacramento River flow or Delta outflow; and 6) the exchange shall not result in an increase in saline drainage to the San Joaquin River or the Delta.

If a south-of-Delta exchange is not specifically identified and described in this Order, the exchange may occur only after the Deputy Director for Water Rights determines that the exchange will be implemented in accordance with the conditions of this Order. Petitioners should annotate "Additional Request per 2024 Consolidated Place of Use Order" on any additional exchange requests and submit to the Deputy Director for Water Rights. Petitioners should anticipate a determination on the requests no sooner than ten (10) full business days after submittal. The request shall include a description of the amounts to be exchanged, how the exchange will be in compliance with each condition listed in this Order, and how the total exchange amount of 428,300 af by this Order will not be exceeded with the additional exchanges.

6. If, at any time prior to or during the period of the transfer, the State Water Board curtails the water rights involved in the exchanges, only water collected to storage prior to the curtailment may be exchanged.
7. Diversion of water at the Delta Pumps is conditioned upon compliance by the operators with the objectives currently required of Petitioners set forth in Tables 1, 2, and 3 on pages 181-187 of D-1641 or as modified through approval of temporary change petitions applicable to the water rights involved in this petition. In addition, this transfer is conditioned on compliance with the various requirements for use of Stage 1 Joint Points of Diversion (JPOD) by Petitioners under D-1641. Diversion of water is also conditioned upon compliance by Petitioners with all applicable water right license and permit requirements, federal and California Endangered Species Act requirements (ESA), including applicable Biological Opinions (BOs), Incidental Take Permits (ITP), court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
8. Diversion of water at the Delta Pumps is also conditioned upon compliance with applicable State Water Board orders establishing temporary or interim operating conditions during the transfer period, unless the State Water Board has specifically exempted conveyance of exchange water from the order.
9. The exchange period authorized in Condition 1 of this Order is further limited to the period allowed pursuant to any applicable BO, ITP, or federal or State ESA requirements related to transfers at the Delta Pumps. Petitioners shall provide documentation of the diversion period allowed pursuant to the BO, ITP, or federal or State ESA requirements prior to exchange of water. Such documentation may include an electronic link to any transfer BOs, ITPs, or other federal or State ESA consultations, informal consultations, opinions, or other documents issued by the California Department of Fish and Wildlife, National Marine Fisheries Service, or U.S. Fish and Wildlife Service.

10. By the 25th day of each month following approval of this Order, the Petitioners shall electronically submit a monthly report detailing the amounts transferred or exchanged in the previous month. Data used to generate the report shall be provided electronically in a comma-separated values (.csv) file format and shall be compatible with an open data portal platform related to Assembly Bill 1755. All water transferred/exchanged shall also be documented and accounted for by each purpose of use. The report shall document, listed by specific exchange, the dates of the exchanges that have occurred, the amount exchanged between each project (CVP or SWP), gains or losses in groundwater banks, and the remaining quantity authorized to be exchanged. The report shall also include documentation that the water exchanged did not result in any increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.
11. Within 90 days of the completion of the transfer, the Petitioners shall provide to the Deputy Director for Water Rights one or more tables describing the transfer authorized by this Order. Data used to generate the table(s) shall be provided electronically in a comma-separated values (.csv) file format and shall be compatible with an open data portal platform related to Assembly Bill 1755. The table(s) shall include the monthly and total amounts of water delivered under the transfer to Valley Water; participating Kern County WA exchanges; and Arvin-Edison-Metropolitan; and any other entities receiving transfer water in accordance with Condition 5 for the period covered by this exchange. The table(s) shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each user received.
12. Pursuant to Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this temporary change order, including method of use and quantity of water diverted, are subject to the continuing authority of the State Water Board 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 ESA (Fish & G. Code, §§ 2050-2097) or the federal ESA (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any action authorized under this Order, the Petitioners shall first obtain authorization for an incidental take permit prior to undertaking that action. Petitioners shall be

responsible for meeting all applicable California ESA and federal ESA requirements for the temporary change authorized under this Order.

14. The State Water Board reserves authority to supervise the exchange and use of water under this Order and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: JUL 22 2024