

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, IN PART, A PETITION FOR TEMPORARY CHANGE IN THE PLACE OF
USE OF LICENSE AND PERMITS OF THE CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES BUREAU OF RECLAMATION²**

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 INTRODUCTION

On March 28, 2016, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (hereinafter jointly referred to as Petitioners) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), a Petition for Temporary Change under Water Code Section 1725, et seq. With the petition, DWR requests a one-year modification of Permit 16479 and Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 to temporarily change the authorized place of use of: (1) the DWR permit to include the Central Valley Project (CVP) authorized place of use downstream³ of Jones Pumping Plant (Jones); and (2) the Reclamation license and permits to include the State Water Project (SWP) authorized place of use downstream of Harvey O. Banks Pumping Plant (Banks). The maximum total transfer quantity requested is up to 305,820 acre-feet (af).

The changes requested will temporarily consolidate the authorized places of use of the SWP and CVP (hereinafter jointly referred to as the Projects). DWR and Reclamation indicate that the changes will more effectively and efficiently utilize the operational flexibility of the combined Projects to supply water south of Banks and Jones (Delta Pumps). The Petitioners state that the requested changes will facilitate the delivery of available Project supplies south of the Sacramento-San Joaquin Delta (Delta) and maximize the beneficial use of available supplies. The Petitioners indicate approval of the petition will not increase the quantity or alter the timing of diversions from the Delta or San Joaquin River.

The temporary changes become effective upon issuance of the Order and remain in effect for one year from the date of approval. The total transfer quantity consists of many transfers/exchanges detailed in Section 3.3 below.

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

² The 47,920 af exchange between Kern-Tulare Water District and the Exchange Contractors is denied.

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

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

SWP and CVP License and Permits Subject to Temporary Change

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

On April 27, 2015, the State Water Board approved a similar petition filed by the same Petitioners to transfer/exchange up to 335,560 af of water to the same buyers. On May 22 and July 30, 2015, the State Water Board approved three requests for additional transfers/exchanges totaling 111,600 af. DWR indicated in the requests that the approved amount of 335,560 af would not be exceeded with the additional transfers/exchanges. As of the end of March 2016, 56,784 af of water have been transferred/exchanged.

2.0 CALIFORNIA'S ONGOING DROUGHT CONDITIONS

2.1 Governor's Proclamations of a Drought State of Emergency

This Order is consistent with the January 17, 2014 Proclamation of a Drought State of Emergency issued by Governor Edmund G. Brown Jr. and the Governor's Executive Order B-21-13 (Executive Order) issued on May 20, 2013 for the purpose of streamlining approval for water transfers to address the dry conditions and water delivery limitations to protect California's agriculture. The State Water Board and DWR are directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California. This Order is also consistent with the April 25, 2014, Proclamation of a Continued State of Emergency directing the State Water Board to immediately and expeditiously process requests to move water to areas of need, including requests involving voluntary water transfers.

The statewide snowpack readings recorded on March 30, 2016 are much better compared to last year. The snowpack that was only five percent of normal in 2015 is now 87 percent of average. Although there have been significant gains in both reservoir storage and stream flow recently, the effects of the previous dry years still remain. The historically dry conditions experienced in the past several years have resulted in significant reductions in water supplies in California. The Governor's Emergency Drought Proclamation remains in effect.

2.2 SWP and CVP Operations Supply

Due to the continued dry conditions, on February 27, 2016, DWR announced that SWP contractors would only be allocated 45 percent of their contracted SWP amounts in 2016. Subsequently, on April 21, 2016, due to runoff from storms boosting reservoir levels, the SWP contractors' allocation was increased to 60 percent.

On April 1, 2016, Reclamation announced its water supply allocations for 2016. Agricultural water service contractors south-of-Delta were allocated 5 percent of their contract supply of 1.946 million af; and municipal and industrial water service contractors south-of-Delta were allocated 55 percent of their historic supply. Friant contractors were initially allocated 30 percent of class 1 contracted supplies in 2016 but that amount was later increased to 65 percent on May 6, 2016. San Joaquin River Exchange and Settlement Contractors, whose CVP water supply allocation is subject to pre-established Shasta Reservoir inflow criteria, were allocated 100 percent of their contract supply of 875,623 af. Wildlife refuges (Level 2) north- and south-of-Delta, which also have allocations subject to pre-established Shasta Reservoir inflow criteria, were allocated 100 percent of their contract supply of 422,251 af. Reclamation will evaluate allocations each month.

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 (D-1641) as well as the current biological opinions issued for the protection of Delta smelt and anadromous fishes and marine mammal species. Operational limitations 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.

3.0 SUBSTANCE OF TEMPORARY CHANGE PETITION

3.1 Existing Place of Use of DWR and Reclamation Water Rights

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

3.2 Place of Use under the Proposed Temporary Change Petition

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

3.3 Transfers/Exchanges Proposed

The petition includes the following transfers/exchanges:

a. Santa Clara Valley Water District

Santa Clara Valley Water District (SCVWD) contracts for a water supply from both the SWP and CVP. The SWP water is delivered through the South Bay Aqueduct (SBA) and the CVP water is delivered from San Luis Reservoir through the San Felipe Division. In 2015 and 2016, there are several operational and maintenance issues that may require the delivery of the SCVWD's CVP or SWP supplies through an exchange. Also in 2016 and 2017, to better utilize its limited drought year supplies, SCVWD may need to recover previously stored CVP water from Semitropic Water Storage District (SWSD) by exchange. Up to 25,000 af of the SCVWD's CVP, SWP, and/or previously stored CVP supplies may require delivery through these alternative conveyance approaches. The need for this flexibility is described in more detail below:

- Based on historic operating conditions, total storage in San Luis Reservoir may drop to levels that result in operational and/or water quality problems. When this occurs, SCVWD's pumping capacity through the San Felipe Division can be limited, potentially impacting the ability to meet SCVWD demands. In addition, low water levels can result in reduced water quality causing water treatment problems 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. In addition to San Luis Reservoir water level issues and potential infrastructure repairs, the following may limit SCVWD's ability to receive water through the San Felipe Division and therefore, may require delivery of SCVWD's CVP water through an exchange with the SWP; (1) work at Pacheco Pumping Plant, including a two-day shutdown sometime between November 2016 and March 2017; (2) work on SCVWD- maintained facilities, including shutdown of the Santa Clara Tunnel and Calero Bypass Pipeline, which is a major raw water pipeline, scheduled from January 2017 to March 2017. Given the current drought, SCVWD may also need to move CVP water through the SBA by exchange in order to balance its operations if there is insufficient SWP water moving through the SBA. 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.
- Possible shutdowns on the SBA as well as within SCVWD's service area may prevent deliveries of SWP water through the SBA. Outages at Banks could limit SCVWD's ability to receive water through the SBA during this time. Work at SCVWD's Penitencia Water Treatment Plant, currently scheduled for winter 2016 and spring 2017, including a 7-month shutdown, will limit SCVWD's ability to utilize SWP supplies from the SBA. In addition, SCVWD's aging infrastructure may require unplanned shutdowns that limit the ability to receive SWP water through the SBA. Given the current drought, SCVWD may also need to move SWP water through the San Felipe Division by exchange in order to balance its operations if there is insufficient CVP water moving through the San Felipe Division. 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 Forebay. 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.

- SCVWD has previously banked CVP water supplies in the SWSD groundwater bank. Recovery of the stored CVP water must be accomplished by exchange. In order to return the previously stored CVP water to SCVWD, SWSD will pump the water into the California Aqueduct and deliver that water to DWR for use within the SWP service area south of SWSD's turn-in facilities, or use SCVWD's previously stored water within its own service area. In exchange, an equal amount of SWP water would be delivered to SCVWD through either the SBA and/or the San Felipe Division from San Luis Reservoir. Delivery of SCVWD's previously banked water through the San Felipe Division may take place by an exchange of SWP supplies pumped at Banks and delivered to the CVP at O'Neill Forebay for delivery to CVP users south of O'Neill, in exchange for CVP supplies delivered to SCVWD from San Luis Reservoir and through San Felipe Division.

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, and allow SCVWD to recover previously stored CVP water from SWSD by exchange. Approval of the petition will allow the continued delivery of water to SCVWD and provide operational flexibility, thus minimizing negative impacts to the economy of the SCVWD service area, water levels within the region's groundwater basin, and local environmental resources.

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

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

The proposed exchange would allow the delivery of up to 1,000 af of the landowners' CVP supplies through SWP turnouts on the California Aqueduct to lands within 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 exchange 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 2016. In order to assist

KTWD in meeting peak irrigation demands this summer, KCWA is willing to provide up to 20,000 af of its SWP water to KTWD through the summer months. In exchange, KTWD is willing to provide an equivalent amount of CVP-CVC water to KCWA in the fall for delivery to KCWA member units. KTWD is within the SWP place of use; however several of the KCWA member units 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.

San Joaquin River Exchange Contractors Exchange

The San Joaquin River Exchange Contractors (Exchange Contractors), which include Central California Irrigation District, Firebaugh Canal Water District, San Luis Canal Company and Columbia Canal Company, executed an exchange agreement with Reclamation whereby Reclamation, following the construction of Friant Dam, provides water to the Exchange Contractors from the Sacramento-San Joaquin Delta (Delta) in exchange for water historically diverted from the San Joaquin River (Exchange Contract).

Due to the current hydrologic and regulatory conditions, Reclamation anticipates that 650,000 to 840,000 af of the Exchange Contractors' water supply can be delivered in 2016 pursuant to the 1967 Second Amended Exchange Contract (Contract No. Ilr-1144r). However, there is a possibility that only a portion of this will be made available from the Delta. As a result, Reclamation may provide San Joaquin River water released from Friant Dam to the Exchange Contractors. Deliveries to the Exchange Contractors from Friant Dam to the Mendota Pool result in significant conveyance losses in the San Joaquin River channel.

To make the most efficient use of the severely limited contract supplies, and generate additional supply, KTWD has proposed to exchange water supplies it has available in San Luis Reservoir for a portion of the San Joaquin River water that would otherwise be subject to release by Reclamation from Friant Dam into the San Joaquin River channel for delivery to the Exchange Contractors at Mendota Pool.

Under the exchange, up to 47,920 af of San Joaquin River water is proposed to be diverted from Friant Dam into the Friant-Kern Canal for delivery to KTWD and up to 34,500 af of KTWD's water supplies it has available in San Luis Reservoir would be delivered to the Exchange Contractors at the Mendota Pool via the Delta-Mendota Canal. The quantity of water diverted from Friant Dam to KTWD through the Friant-Kern Canal is the quantity of water that Reclamation would be required to release from Friant Dam to deliver 34,500 af of water to the Exchange Contractors through the San Joaquin River due to the high conveyance losses. Delivery of the KTWD supplies from San Luis Reservoir to the Exchange Contractors avoids the high conveyance losses, making more efficient use of the available supplies. Delivery of the KTWD water supplies available in San Luis Reservoir to the Exchange Contractors is proposed to be accomplished through a combination of exchanges between KTWD and KCWA.

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 AEWS 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 AEWS 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 AEWS. 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 AEWS.

Regulation Program:

Additionally, the requested change to a consolidated place of use would allow AEWS 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 AEWS CVP water supplies that have a limited opportunity for use under current CVP operations. AEWS is interested in utilizing MWDSC's ability to take delivery of and use or store AEWS's CVP water supplies and return SWP water supplies to AEWS at a future time in order to enhance AEWS'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.

Carryover Program:

In the event that hydrologic conditions are such that AEWS believes that there may be limited availability to carry over 2016 CVP water supplies in CVP reservoirs, AEWS 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 AEWS facilities. MWD is willing to provide water management services to assist in regulating the available contract supplies.

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

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

The proposed exchanges would be up to a total of 150,000 af of CVP water supplies for all three programs described above.

CVP Delta supplies will be provided as stated above.

If available, Friant Division CVP water will be provided directly via delivery from the Friant-Kern Canal and AEWS's distribution system, including its connections to the California Aqueduct at Milepost 227 (Reach 14C) or via its capacity in the 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 16,000 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 (SWSD). Two landowners, Poso Creek LLC, and Harris Farms Inc., have agricultural operations in both KCWA and Westlands and have both a SWP and CVP contract supply. The landowners have banked CVP water in SWSD. The landowners plan to recover up to 16,000 af of their previously stored CVP water. Delivery of the CVP water currently stored in SWSD will be accomplished through exchange. KCWA will deliver up to 16,000 af of SWP water to Westlands turnouts on the joint use facilities. An equivalent amount of the landowners' water stored in SWSD will be transferred to KCWA.

CVP and Lower Kern River Water Recovery – Nickel Water

KCWA also proposes to provide up to 7,600 af of its SWP water to Westlands to facilitate the delivery of Lower Kern River water purchased by Westlands from Nickel Family LLC. Up to 7,600 af of Lower Kern River water rights water previously stored in SWSD 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 on the joint-use facilities.

f. *Department of Veterans Affairs – San Joaquin Valley National Cemetery*

The Department of Veterans Affairs – San Joaquin Valley National Cemetery (VA Cemetery) contracts with Reclamation for up to 850 af of CVP supply. The VA Cemetery is located near Reach 2B on the California Aqueduct (north of O'Neill Forebay). Reclamation is unable to directly convey CVP water to the cemetery. 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 450 af per year under contract, to Musco Olive Products Inc. (Musco). Musco is not connected to BBID's distribution system. Neither BBID nor Reclamation can physically convey CVP water to Musco. 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 450 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. *Tulare Lake Basin Water Storage District – Westlands Water District/San Luis Water District*

Due to the current hydrologic conditions and regulatory restrictions, Westlands and San Luis Water District (San Luis) anticipate significant restrictions on the amount of 2016 CVP water available to Agricultural contractors downstream of Jones. Growers within Westlands and San Luis will execute an agreement with J.G. Boswell Company (Boswell), a local landowner within Tulare Lake Basin Water Storage District (TLBWSD), for the purchase of up to 35,000 acre-feet of Boswell's pre-1914 Kings River water. TLBWSD proposes to facilitate the transfer of the Boswell Kings River water to Westlands and San Luis in exchange for up to 35,000 af of its SWP pre-1914 Kings River water. TLBWSD's SWP water in San Luis Reservoir will be conveyed through the California Aqueduct and delivered to the growers within Westlands and San Luis. The exchange will be completed by April 30, 2017.

i. Potential Additional Transfers/Exchanges

The above transfers include all the specific transfers requested as of the date of the petition. 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 2016 more needs and opportunities for exchanging SWP and CVP water may be developed. The Petitioners request that any Order approving this petition includes the approval of potential future projects that meet certain specific criteria. In order to allow the State Water Board to make the findings required by Water Code Section 1725, the Petitioners have indicated that any project not specifically detailed in the transfers listed above will be conducted in accordance with the following criteria:

1. The transfer or exchange would not result in any increase in the amount of water diverted from the Delta. The water to be exchanged would be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta.
2. The water to be 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/exchange of water. The State Water Board shall approve temporary changes involving the transfer/exchange of water under Water Code Section 1725 et seq. if it determines that a preponderance of the evidence shows both of the following:

- a. The proposed changes would not injure any legal user of the water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed changes, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.

- b. The proposed changes would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b).)

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

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

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

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

6.0 PUBLIC NOTICE AND COMMENTS

On April 7, 2016, a 15 day public notice of the petition for temporary change was provided as follows: 1) via first class mail to interested parties; 2) by posting on the Division’s website; 3) via the State Water Board’s electronic subscription mailing list; and 4) by publication in the Fresno Bee. The State Water Board received a comment letter from Richard Morat on April 11, 2016 with a follow-up email on April 21, 2016 and a comment letter from AquAlliance on April 22, 2016.

6.1 Mr. Morat’s Comments:

Mr. Morat questioned whether the transfer would result in more upstream storage and a reduction in delta outflow. He also had a concern about the state of the estuary and aquatic resources due to the transfer. He stated that there is no longer have a problem of drought but a problem of permanent water shortage and a temporary transfer should not be used to address a permanent problem.

6.2 State Water Board’s Response:

The temporary changes only involve transfers/exchanges of water that otherwise would be diverted or used under the SWP’s and CVP’s water right license and permits. The transfer/exchanges will all occur south the Delta and will not increase the quantity of diversions from the Delta or the San Joaquin River. The transfers/exchanges will not increase upstream storage or decrease net Delta outflow. The same diversions at Banks and Jones would occur absent the transfers/exchanges.

Per Water Code section 1727, subdivision (e)., the Board shall not deny, or place conditions on, a temporary change to avoid or mitigate effects on fish, wildlife, or other instream beneficial uses caused by factors other than the proposed temporary change. Since this transfer/exchange only involves water that otherwise would be diverted absent the transfer/exchange it should not be conditioned to avoid fishery impacts not caused by the transfer/exchange. In previous years, there have been similar transfers and no measurable estuary or aquatic impacts were noted.

6.3 AquAlliance's Comments:

- a. The exchange involving the San Joaquin River Exchange Contractors impacts the San Joaquin River and groundwater basin.
- b. An independent third party should be required to monitor and report on the timing of the transfers/exchanges. DWR and Reclamation have made the exchanges convoluted and have been negligent in responding to Freedom of Information Act or Public Records Act requests.
- c. A more complete and accurate description of the existing and affected environment should be provided in the Petition.
- d. The Petition should better describe existing water right claims of sellers, buyers, Reclamation, and DWR.

6.4 State Water Board's Response:

- a. In the exchange involving the San Joaquin River Exchange Contractors, the amount of water proposed to be diverted from Friant Dam to KTWD through the Friant-Kern Canal (47,920 af) is the quantity of water that Reclamation would be required to release from Friant Dam to deliver 34,500 af of water to the Exchange Contractors. The difference is attributable to seepage losses of approximately 28 percent of the amount released. Reclamation states this exchange enables them to effectively deliver the KTWD water supply and avoid seepage losses. AquAlliance states that the petition fails to conclude that what is characterized as a loss to the San Joaquin River is actually 13,420 af that would recharge an already severely depleted river basin.

Reclamation has indicated they are not required by its license or permits to release water into the San Joaquin River for delivery to the Exchange Contractors. In 2014, due to extremely dry conditions, water was released from Friant Dam for delivery to the Exchange Contractors via the San Joaquin River. This was the first time since the Exchange Contract was executed in 1939 that Reclamation made a portion of the deliveries to the Exchange Contractors from Friant releases. In 2015, as part of the 2015 Consolidated Place of Use Order, an exchange was approved by the State Water Board in its subsequent approval process allowing the San Joaquin River Exchange Contractors to exchange up to 57,600 af obviating the need to transport their supply via the San Joaquin River. Due to the curtailment of San Joaquin River water rights involved at that time, any exchanges would have to have been done with stored water. The monthly reporting of the exchange involving the Exchange Contractors indicated that 16,705 af of stored water was exchanged in July 2015. There were no other reported exchanges to the Exchange Contractors as of April 30, 2016.

See Section 8 of this Order for findings regarding exchange between KTWD and the Exchange Contractors.

- b. The State Water Board does not typically require independent third party monitoring and reporting of the timing of transfers/exchanges. Instituting such a requirement for these transfers/exchanges is not warranted, when considering the technical expertise of DWR and Reclamation already in place. DWR and Reclamation have the responsibility to monitor and report on transfers/exchanges between the SWP and CVP contractors involved. DWR and Reclamation have indicated that neither has received any requests under the Freedom of Information Act or Public Records Act regarding this petition for change. A term requiring DWR and Reclamation to provide monthly reporting of the amount and timing of the transfers/exchanges is included in the Order. During 2015, at the request of the State Water Board, DWR provided monthly updates during the period of the transfer.

- c. 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.). 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. Discussion of this finding is contained in Section 7.3 of this Order.

The exchanges do not involve a change in the amount of water diverted or used within the watershed of origin. All exchanges involve 2016 SWP and CVP supplies that otherwise would be diverted or used. The amount of water diverted and used is independent of the proposed exchanges. The exchanges will not increase water diverted from any authorized source or exported from the Delta. Transfers/exchanges similar to those approved by this Order were conducted in 2009, 2010, 2012, 2013, 2014, and 2015 consistent with the provisions of Order WR 2009-0033, Order WR 2010-0032-DWR, and the July 6, 2012, July 1, 2013, March 28, 2014, and April 27, 2015 State Water Board Orders approving DWR's and Reclamation's petitions for change to consolidate the authorized places of use of the SWP and CVP. No measureable effects on other legal users of water were noted from those transfers/exchanges.

- d. The water rights involved in these transfers/exchanges are only the DWR Permit 14443, and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973, and 12364. The details of these water rights are publicly available on our eWRIMS database. The transfer/exchange buyers and sellers are all SWP or CVP contractors and their water rights are not relevant to the transfers/exchanges. DWR and Reclamation are consolidating their respective places of authorized use in their license and permits in order to facilitate the transfers/exchanges between the buyers and sellers who are all SWP or CVP contractors.

7.0 REQUIRED FINDINGS OF FACT FOR PROPOSED TRANSFERS/EXCHANGES IN PETITION EXCEPT EXCHANGE BETWEEN KTWD AND THE EXCHANGE CONTRACTORS

The following discussion and findings are applicable to the following transfers/exchanges proposed in the petition: 25,000 af to SCVWD; 3,000 af to OFWD and DPWD; 20,000 af to KCWA and KTWD; 150,000 af to AEWSD and MWDSC; 23,600 af to KCWA and Westlands; 850 af to the VA Cemetery; 450 af to Musco; and 35,000 af to TLBWS and Westlands and San Luis.

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

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer/exchange would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code Section 1725 defines "consumptively used" to mean "the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion."

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

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

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

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

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

7.2 No Injury to Other Legal Users of the Water

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

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

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

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

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

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

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

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

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

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

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

8.0 DENIAL OF EXCHANGE BETWEEN KTWD AND THE EXCHANGE CONTRACTORS

Due to lack of information provided by the Petitioners, they have not met their burden of establishing that the proposed exchange between KTWD and the Exchange Contractors would have been consumptively used or stored in absence of the exchange, will not result in injury to other legal users of the water involved or unreasonably affect fish and wildlife. It is uncertain whether the water that would be released from Friant Dam in the absence of the exchange would have been released from storage rather than bypassed natural flows.

In light of the above, I cannot find in accordance with Water Code section 1726, subdivision (e) and section 1727, subdivisions (b)(1) and (b)(2) that the proposed temporary change per 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 only involves water that would have been consumptively used or stored, will not injure other legal users of water, or will not unreasonably affect fish, wildlife, or other instream beneficial uses.

If the Petitioners can provide additional information to support that the proposed exchange between KTWD and the Exchange Contractors would only involve stored water released from Friant Dam, the Deputy Director for Water Rights will consider the proposed exchange between KTWD and the Exchange Contractors under the additional south-of-Delta transfer/exchange process identified in Condition 5 of the Order.

9.0 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.

10.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I find as follows regarding DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, for the following transfers/exchanges proposed in the petition: 25,000 af to SCVWD; 3,000 af to OFWD and DPWD; 20,000 af to KCWA and KTWD; 150,000 af to AEWSD and MWDSC; 23,600 af to KCWA and Westlands; 850 af to the VA Cemetery; 450 af to Musco; and 35,000 af to TLBWSD and Westlands and San Luis:

I conclude that, based on the available evidence:

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

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use, under DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 for transfer of up to 257,900 af of water involving transfers or exchanges outlined below is approved. The portion of the petition requesting an exchange of 47,920 af to KTWD and KCWA and the Exchange Contractors is denied.

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

1. The transfers/exchanges of water are limited to the period commencing on the date of this approved Order, and continuing for one year from the date of approval.
2. The place of use under DWR's Permit 16479 is temporarily expanded to include portions of the CVP service area shown on the map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to SWP Authorized Place of Use*, Map 214-202-83.
3. The place of use under Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 is temporarily expanded to include portions of the SWP service area as shown on the map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use*, Map 214-202-84.
4. Water transferred/exchanged pursuant to this Order shall be limited to 257,900 af within the following locations: (a) 25,000 af to SCVWD; (b) 3,000 af to OFWD and DPWD; (c) 20,000 af to KCWA and KTWD; (d) 150,000 af to AEWS and MWSD; (e) 23,600 af to KCWA and Westlands; (f) 850 af to the VA Cemetery; (g) 450 af to Musco; and (h) 35,000 af to TLBWSD and Westlands and San Luis. 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 (h), but may occur within the more general service areas shown on Maps 214-202-83 and 214-202-84.
5. This approval is limited to the transfers/exchanges identified and described in this Order and as specified in Condition 4 and, upon approval, additional south-of-Delta transfers/exchanges that meet the criteria set forth in this Order. This approval does not extend to any transfers/exchanges under DWR's or Reclamation's water rights in excess of the total of 257,900 af authorized under this Order. Criteria for additional transfers/exchanges include: 1) The transfer or exchange would not result in any increase in the amount of water diverted from the Delta; 2) The water to be exchanged would be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta; 3) The water to be exchanged or transferred would have been consumptively used or stored in the absence of the transfer; 4) The total quantity of water delivered to SWP or CVP contractors as a result of the change will not exceed historic average deliveries; 5) The transfer or exchange will not result in the net loss of San Joaquin River or Sacramento River flow; 6) The transfer or exchange will not result in an increase in saline drainage to the San Joaquin River.

If a south-of-Delta transfer/exchange is not specifically identified and described in this Order, the transfer/exchange may occur only after the Deputy Director of Water Rights determines that the transfer/exchange will be implemented in accordance with the conditions of this Order. Requests should be addressed to the Deputy Director of Water Rights. Petitioners should anticipate a determination on the requests no sooner than 5 full business days after submittal. Requests should be submitted on the form entitled "Petition for Change Involving Water Transfers" available on the Division's website. Petitioners should annotate "Request per Consolidated Place of Use Order" at the top of the form. The request shall include a description of the total amount authorized by this Order, and how the amount authorized of 257,900 af will not be exceeded with the additional transfers/exchanges.

6. If at any time prior to, or during the period of the transfer, the State Water Board issues a notice of water unavailability pursuant to the water rights involved in the transfer/exchange, only water collected to storage prior to issuance of the notice of water unavailability may be transferred.
7. DWR and Reclamation shall not increase their allocation of water to the transfer/exchange parties beyond the quantities authorized by existing contract for purposes of this transfer/exchange.
8. Carriage loss shall be deducted from any water transferred through the Delta and delivered under this Order.
9. Diversion of water at the Delta Pumps is subject to compliance by the operators with the objectives currently required of DWR and Reclamation set forth in Tables 1, 2, and 3 on pages 181-187 of D-1641, or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at those points of diversion/rediversion, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and Reclamation, as amended by the documents cited in Condition 10. Diversion of water is also subject to compliance by DWR and Reclamation with all applicable Biological Opinions (BOs) and court orders and any other conditions imposed by other regulatory agencies applicable to these operations.
10. Diversion of water at the Delta Pumps is also subject to compliance with any State Water Board Orders establishing temporary or interim operating conditions during the transfer period, except if the State Water Board has specifically exempted conveyance of transfer water from the Order.
11. The transfer period authorized above is further limited to the period allowed pursuant to any applicable BO or Endangered Species Act (ESA) consultations (or informal consultations) related to transfers at the Delta Pumps. Petitioners shall provide documentation of the diversion period allowed pursuant to the BOs or consultations prior to transfer of water. Such documentation may include an electronic link to any transfer BOs or ESA consultations, informal ESA consultations, opinions, or other documents issued by CDFW, National Marine Fisheries Service or U.S. Fish and Wildlife Service.
12. By the 20th day of each month following approval of this Order, the Petitioners shall electronically submit a monthly report detailing the amounts transferred or exchanged in the previous month. This report shall document, listed by specific transfer/exchange, the transfers/exchanges that have occurred to date and how much remains of the authorized amount of 257,900 af.
13. Within 90 days of the completion of the transfer, the Petitioners shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:
 - a. The monthly and total volumes of transfer water delivered to SCVWD, OFWD, DPWD, KCWA, KTWD, AEWSD, MWDSC, Westlands, the VA Cemetery, Musco, TLBWSD, San Luis 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, AEWSD, MWDSC, Westlands, the VA Cemetery, Musco, TLBWSD, San Luis and any entities receiving transfer water in accordance with Condition 5 for the period covered by this transfer. This total shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each location received.
 - c. Documentation that the water transferred/exchanged did not result in any increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.
14. Pursuant to Water Code Sections 100 and 275 and the common law public trust doctrine, all rights

and privileges under this transfer and temporary change order, including method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

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

15. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California ESA (Fish & G. Code, §§ 2050-2097) or the federal ESA (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this transfer, the Petitioners shall obtain authorization for an incidental take permit prior to construction or operation. Petitioners shall be responsible for meeting all requirements of the applicable ESA for the temporary transfer authorized under this Order.
16. The Deputy Director for Water Rights reserves jurisdiction to supervise the transfer, exchange, and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: MAY 17 2016