

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF LICENSE 2033 (APPLICATION 1699)
PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 6,500 ACRE-FEET OF WATER
FROM GARDEN HIGHWAY MUTUAL WATER COMPANY
TO STATE WATER CONTRACTOR AGENCIES**

SOURCE: Feather River

COUNTY: Sutter

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On April 1, 2020, Garden Highway Mutual Water Company (GHMWC, Company, or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a petition for temporary change under Water Code section 1725, et seq. GHMWC requested to transfer up to 6,500 acre-feet (AF) of water under water right License 2033 (Application 1699) from May 2020 through September 2020 to participating State Water Contractor (SWC) Agencies. The SWC Agencies that will use the water include: Dudley Ridge Water District, County of Kings, Tulare Lake Basin Water Storage District, Alameda County Water District, Kern County Water Agency, Palmdale Water District, and Santa Clarita Valley Water Agency. Temporary changes approved pursuant to Water Code section 1725 may be effective until September 30, 2020.

1.1 Description of the Transfer

GHMWC proposes to transfer up to 6,500 AF of water under water right License 2033 (Application 1699) to SWC Agencies via groundwater substitution. The transfer water would be made available at the proposed additional point of diversion and point of rediversion by groundwater substitution for surface water under GHMWC's License 2033. To facilitate this transfer, GHMWC requests the following temporary changes to License 2033: (1) add the State Water Project's (SWP) Harvey O. Banks Pumping Plant (Banks Pumping Plant) as a point of diversion, (2) add San Luis Reservoir as a point of rediversion, (3) add a portion of the SWP's service area as an additional place of use, and (4) add municipal, industrial, and domestic purposes of use.

GHMWC's transfer petition also proposes that "the flow in the Feather River downstream of Company's present point of diversion will increase by up to 6,500 AF over what would have occurred absent the proposed transfer. These increases will occur during the period that

surface water is made available by the Company, or if possible, during the following months thereafter through releases by Department of Water Resources (DWR) for conveyance to the participating SWC Agencies.” The releases by DWR, of surface water made available by GHMWC, for conveyance to the participating SWC Agencies were proposed to occur during May 2020 through September 2020 due to regulatory requirements. GHMWC entered into an Agreement on Diversion of Water from the Feather River (Agreement), dated May 17, 1977, with DWR for the purpose of a water right settlement associated with the operation of Oroville Dam and Thermalito Diversion Dam, Forebay, and Afterbay. The proposed quantity of water made available for this transfer is based on the full supply under the Agreement. As the transfer period approaches, if it appears the supply under the Company’s Agreement will be less than 100%, the transfer quantity may be reduced.

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

1.2 Groundwater Substitution

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

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

Proposals for transfers of water through Central Valley Project (CVP) and/or SWP facilities that involve groundwater substitution are developed to be consistent with the Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), dated December 2019, prepared by the DWR and the U.S. Bureau of Reclamation (Reclamation). Depending on well location and associated impacts to surface water supply, DWR and Reclamation determine which wells are appropriate for groundwater substitution transfer use. The DWR and Reclamation well criteria used to evaluate groundwater substitution transfers is intended to minimize impacts to streamflow during balanced conditions in the Delta and potential impacts to SWP and CVP operations.

GHMWC has indicated that its proposed transfer of water will be consistent with the Draft Technical Information. As such, the groundwater substitution component of this transfer is conditioned to allow use of only those wells found acceptable by DWR and Reclamation, and the wells must be in compliance with DWR's and Reclamation's well construction, location, and monitoring criteria as well as the application of the streamflow depletion factor. GHMWC, DWR, and Reclamation have a previously agreed upon streamflow depletion factor of 24 percent that will be applied to GHMWC's groundwater substitution transfer. Therefore, to account for streamflow depletion related to groundwater pumping, GHMWC will be credited with 76 percent of the total quantity of groundwater pumped in exchange for the surface water available for transfer.

All groundwater substitution transfers are subject to applicable county regulations, including any regulations prohibiting transfer. The boundaries of GHMWC are within the County of Sutter Groundwater Sustainability Agency - Sutter (Sutter County GSA), and GHMWC has notified Sutter GSA's point of contact regarding the proposed groundwater substitution activity within Sutter GSA's boundary. Moving forward, groundwater substitution transfers are also required to comply with current groundwater management law under the water code provisions pursuant to the 2014 Sustainable Groundwater Management Act (SGMA).

Long-Term Impacts to Streamflow from Groundwater Substitution Transfers

Depletion of surface stream flows due to groundwater pumping, including groundwater substitution transfers, has been a long-standing issue of concern in California. Part of the concern involves whether the streamflow depletion factors being used pursuant to groundwater substitution transfers are stringent enough to protect against long-term negative impacts to surface water flows.

Because real-time streamflow depletion due to groundwater pumping cannot be directly measured, DWR and Reclamation have estimated impacts on streamflow due to groundwater pumping by using analytical and numerical groundwater models. DWR and Reclamation have based the overall impacts to streamflow on the previously agreed upon minimum 24 percent average streamflow depletion factor for single year transfers requiring the use of SWP or CVP facilities.

DWR and Reclamation anticipate on-going refinement of groundwater substitution transfer modeling will allow them to more accurately evaluate potential long and short-term surface water depletion impacts from individual transfers and be able to condition future transfers as necessary to protect against those impacts.

2.0 BACKGROUND

2.1 Substance of GHMWC's License 2033

License 2033, which has a priority date of March 2, 1920, authorizes the direct diversion from the Feather River of up to 39 cubic feet per second from April 15 to October 31 of each year for irrigation purposes. The authorized point of diversion for License 2033 is in Sutter County and located by the California Coordinate System, Zone 2, NAD 83, North 2,110,287 feet and East 6,679,958 feet, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 24, T13N, R3E, MDB&M. The authorized place of use consists of a net of 3,708.45 acres within a gross of 3,765.45 acres, said gross acreage lying within: projected Section 1, fractional Section 2, and Section 3, T12N, R3E, and projected Sections 24, 25 and 36, fractional Sections 23, 26 and 35, and Sections 22, 27 and 34, T13N, R3E, all within MDB&M.

2.2 Proposed Temporary Changes

In order to facilitate the transfer, the following will be temporarily added to License 2033: 1) SWP's Banks Pumping Plant via the Clifton Court Forebay as a point of diversion, located within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 20, T1S, R4E, MDB&M; 2) San Luis Reservoir as a point of rediversion, located within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 15, T10S, R8E, MDB&M; 3) a portion of the SWP's service area (as shown on Map 1878 – 2 and 3 filed with the Division under Application 5630); and 4) municipal, industrial, and domestic purposes of use.

3.0 PUBLIC NOTICE AND COMMENT TO THE PROPOSED TEMPORARY CHANGE

On April 10, 2020, public notice of the petition for temporary change was provided by posting on the Division's website and via the State Water Board's electronic notification system. In addition, on April 10, 2020, the Petitioner noticed the project via publication in the Appeal-Democrat newspaper. On April 6, 2020, the Petitioner mailed the notice via first class mail to interested parties. The comment deadline was May 11, 2020. Comments were timely received from U. S. Bureau of Reclamation (Reclamation), California Department of Fish and Wildlife (CDFW), and Mr. Richard Morat.

3.1 Comments of Reclamation

By letter received May 8, 2020, Reclamation commented on the proposed transfer. In order to protect its water rights, Reclamation requested that the transfer be conditioned as follows:

- Petitioner's groundwater substitution proposal is subject to evaluation and approval by Reclamation and DWR, consistent with the approval criteria of the December 2019 Draft Technical Information.
- Only wells approved by Reclamation and DWR for suitability and acceptability may be used for groundwater substitution.
- The amount of transferable water credited to Petitioner's groundwater substitution water transfer operation is subject to the determination of Reclamation and DWR.
- Before commencing the groundwater substitution operation, Petitioner shall submit a Monitoring Program Plan and Mitigation Program Plan to DWR and Reclamation for evaluation and prior approval.
- The amount of water transferred pursuant to this Order shall not exceed the stream flow depletion factor of 24 percent as set forth in the Draft Technical Information.
- Transferable water may be credited only during balanced conditions in the Sacramento-San Joaquin River Delta.

State Water Board Response:

The State Water Board's understanding is that GHMWC's water that would have been applied to crops may be temporarily retained in Lake Oroville during the months of May and June, subsequently released later in the approved transfer period, and delivered pursuant to DWR's water rights when capacity is available at the Banks Pumping Plant. DWR operates the Lake Oroville facilities in such a way as to meet all needs of other water right holders and comply with applicable environmental flow and water quality standards on the Feather River. The groundwater substitution transfer will also result in the same irrigation return flows as if surface water were applied to the land during May and June, less any streamflow depletion considerations. Therefore, it is reasonable to conclude that the proposed transfer during May and June amounts to a temporary exchange of water with DWR and GHMWC and will not injure other water right holders or unreasonably affect fish and wildlife as long as all requirements are being met. In order to avoid potential injury to Reclamation's and DWR's water rights, the transfer is conditioned that GHMWC's groundwater substitution proposal is subject to the evaluation and approval by Reclamation and DWR, consistent with the approval criteria of the Draft Technical Information.

3.2 Comments of CDFW

By letter dated April 29, 2020, CDFW commented on the proposed temporary transfer. CDFW expressed its concerns with cumulative impacts associated with proposed and future transfers that have the potential to impact groundwater dependent ecosystems (GDEs). CDFW states that water transfers made available by groundwater substitution have the potential to affect groundwater hydrology due to increased groundwater extraction and reduced groundwater recharge.

State Water Board Response:

Groundwater substitution transfers are subject to compliance with the requirements of the groundwater management requirements in the Draft Technical Information, applicable existing Groundwater Management Plans, and SGMA. SGMA requires GSA to consider the interests of all beneficial uses and users of groundwater, including GDEs, during the development and implementation of Groundwater Sustainability Plans (GSPs) pursuant to Water Code section 10723.2. As GSPs are currently in development in most groundwater basins and due for completion within the next two years for the Sacramento Valley, the State Water Board expects potential water transferors to coordinate with applicable GSAs to ensure water transfer activities are considered in the development of relevant GSPs.

GHMWC indicated in its petition that as a condition of participation in the proposed temporary transfer, GHMWC has developed groundwater monitoring, reporting, and mitigation plans to ensure the proposed transfer does not result in any unreasonable and adverse impacts to the groundwater basin or third parties. GHMWC is located within the Sacramento Valley Sutter Subbasin; Sutter County GSA is currently developing a GSP to address the requirements of SGMA. SGMA requires GSAs to avoid depletions of interconnected surface waters that have significant and unreasonable adverse impacts on beneficial uses of surface water (significant and unreasonable depletions). GSAs will accomplish avoidance of significant and unreasonable depletions through the implementation of one or more GSPs. The transfer proposed by GHMWC must be consistent with the requirements of the applicable GSP, once adopted by the Sutter County GSA.

The State Water Board agrees that ongoing coordination with GSAs will help determine whether water transfer activities in a basin may have potential impacts on GDEs and that GSPs should consider these impacts in the development of sustainability goals, minimum thresholds, and measurable objectives for comprehensive sustainable management criteria. The State Water Board is monitoring the progress of development of GSPs and may further condition future groundwater substitution transfers accordingly.

3.3 Comments of Mr. Richard Morat

By letter, dated April 22, 2020, Richard Morat commented on the proposed transfer. Mr. Morat requested terms and conditions that better protect public trust resources and that the transfer will not result in an unreasonable effect on fish and wildlife or other instream

beneficial uses. Mr. Morat also commented that the transfer should be conditioned for only essential uses in 2020, and that transfer of water that otherwise would have remained in storage be conditioned “such that conservation storage replenishment of the transferred amount be timed and amounts allowed to be conserved scoped to the affected river’s and the estuary’s capacity to reasonably forego those flows.”

State Water Board Response:

The State Water Board is responsible for considering public trust resources, and while it does not anticipate any adverse public trust impacts to result from this transfer, the State Water Board is aware of long-standing challenges with regard to management of flows and maintaining habitat conditions that are suitable for protection of fish and wildlife in the Delta and its tributaries. Current outflow and water quality requirements are established by State Water Board Revised Water Right Decision 1641 (D-1641) and applicable Biological Opinions, which are the responsibility of DWR and Reclamation to fulfill during the entirety of this transfer.

The State Water Board is supportive of transfers to provide water where it is needed. It is anticipated that SWC Agencies involved in this transfer will only receive 20 percent of their SWP allocation this year. The temporary change petition seeks to add municipal, industrial, and domestic purposes of use through September 2020.

The proposed temporary transfer by GHMWC is for water that would have otherwise been diverted pursuant to their license. By approving the transfer, additional water will flow down the Feather River to the Sacramento River and the Delta. Furthermore, this transfer is based on a direct diversion water right, therefore scheduling of any storage releases from Lake Oroville is the responsibility of DWR as it fulfills in-delta and export commitments, consistent with D-1641. In light of the above explanation, it is not anticipated that this transfer will result in unreasonable effect on fish and wildlife, other instream beneficial uses, or other public trust resources.

4.0 POTENTIAL CURTAILMENT

During any Notice of Water Unavailability (curtailment) period in 2020 that includes GHMWC’s license, GHMWC will be required to cease all diversions under the license, including any diversions for temporary transfer, regardless of whether the actual diversion would be facilitated by DWR at Lake Oroville or other SWP facilities. A condition is therefore included in this Order that the transfer must cease should the State Water Board issue notification that water is unavailable for Feather River diversions that would apply to GHMWC’s License 2033. Additionally, water may only be diverted and temporarily retained by DWR in Lake Oroville when water is available under License 2033, thus only storage releases would be permitted during a period of water unavailability that affects DWR’s water rights.

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

6.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

Pursuant to Water Code section 1725, “a permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would involve only 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, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses.” (Wat. Code, § 1725.)

The State Water Board shall approve a temporary change involving the transfer of water under Water Code section 1725 et seq., if it determines that a preponderance of the evidence shows both of the following:

- a. The proposed change would not injure any legal user of water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.
- b. The proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses.
(Wat. Code, § 1727, subd. (b).)

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

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

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

7.0 REQUIRED FINDINGS OF FACT

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

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Water Code 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.” The water proposed for transfer consists of up to 6,500 AF (less a streamflow depletion loss) of surface water made available through increased groundwater pumping.

To the extent that the additional groundwater pumped does not affect streamflow, this water represents water which would not be available for use in the downstream water supply. DWR, Reclamation, and Petitioner have previously agreed upon a streamflow depletion factor of 24 percent of the additional groundwater pumped will affect streamflow. This Order limits the amount of water credited to the transfer to 76 percent of the groundwater pumped.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would have been 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, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code, § 1727, subd. (b)(1).) The water proposed for transfer consists of surface water made available through increased groundwater pumping. DWR and Reclamation have reviewed the proposed transfer and determined that, with the inclusion of the 24 percent streamflow depletion factor, as well as their oversight of the groundwater substitution operations described in Section 1.2 of this Order, the SWP and CVP will not be injured from the additional groundwater pumping associated with the transfer. The groundwater substitution conveyance agreement described in Section 1.2 of this Order includes mitigation and monitoring plans to address the impacts of additional groundwater pumping for this transfer. The response to Reclamation’s comments further clarifies the conditions under which a transfer may take place prior to capacity being made available at Banks

Pumping Plant, or during a period of water availability. This Order requires compliance with these agreements and plans. In general, the transfer of water that would otherwise be consumptively used will not result in injury to other legal users of water.

Water Code Section 1745.10 requires that groundwater substitution transfers be (a) consistent with a groundwater management plan adopted pursuant to state law for the affected area, or (b) approved by the water supplier from whose service area the water is to be transferred and that water supplier, if a groundwater management plan has not been adopted, determines that the transfer will not create, or contribute to, conditions of long-term overdraft in the affected groundwater basin. As indicated in Section 1.2 of this Order, the boundaries of GHMWC are within the Sutter County GSA, and GHMWC has notified the Sutter County GSA's point of contact regarding the proposed groundwater substitution activity within the GSA boundary. GHMWC's petition also notes that they believe the proposed transfer will not result in overdraft based on data provided by a multi-completion continuous groundwater monitoring well installed by DWR in 2010 within GHMWC. The monitoring results obtained from the wells indicate seasonal fluctuations in water level but not a continued decline.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed transfer will not injure any legal user of the water. I also find that the use of groundwater to replace surface water that is transferred pursuant to this Order must meet the requirements of Water Code section 1745.10.

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

Before approving a temporary change in order to facilitate a transfer of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) The Petitioner provided CDFW and the Central Valley Regional Water Quality Control Board (Regional Board) with a copy of the petition in accordance with California Code of Regulations, title 23, section 794, subdivision (c). CDFW provided comments regarding proper basin management to avoid potential future impacts to GDEs resulting from groundwater substitution transfers, which are discussed in Section 3.2 of this Order. The Regional Board did not provide any comments to the State Water Board regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

In general, North of Delta transfers result in an incremental increase in instream flows between the Petitioner's point of diversion and the location where the water is removed from the stream system. The increase in flows is not anticipated to be harmful to instream resources, provided that the transfer water does not cause instream temperatures to increase to harmful levels and also does not result in false fish attraction flows to streams not suited for fish rearing. No information is available that suggests the transfer flows will contribute to false fish attraction flows or significantly change stream temperatures or water quality. The transfer will be subject to Biological Opinions issued by the U.S. Fish and

Wildlife Service and the National Marine Fisheries Service under the federal Endangered Species Act and relevant court orders.

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

8.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

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

9.0 CONCLUSIONS

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

I conclude that, based on the available evidence:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of the water.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.
4. Any increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) will be performed in compliance with Water Code section 1745.10.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change for the transfer of up to 6,500 AF of water under License 2033 is approved.

All existing terms and conditions of License 2033 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on the date of this Order and continuing through September 30, 2020.

2. Municipal, industrial, and domestic uses are temporarily added as purposes of use.
3. The transfer amount under License 2033 is limited to a total of up to 6,500 AF prior to subtracting streamflow depletion loss by groundwater substitution.
4. The Petitioner shall reduce its diversion rate at the original point of diversion authorized under License 2033 by an amount equal to the rate of additional groundwater pumped in order to make water available for transfer pursuant to this Order (both measured as a daily average). The amount of water transferred pursuant to this Order shall not exceed 76 percent of the rate of additional groundwater pumping. Accordingly, the maximum amount of water available for transfer given a 24 percent depletion rate is 4,940 AF.
5. Petitioner shall comply with all provisions contained in the groundwater substitution agreements pursuant to the Draft Technical Information, between DWR, Reclamation, and GHMWC as a condition of transferring water pursuant to this Order.
6. The authorized place of use under License 2033 is temporarily expanded to include the service areas of Dudley Ridge Water District, County of Kings, Tulare Lake Basin Water Storage District, Alameda County Water District, Kern County Water Agency, Palmdale Water District, and Santa Clarita Valley Water Agency, which are within a portion of the service area of the SWP (as shown on Map 1878 – 1, 2, 3 and 4 filed with the Division under Application 5630).
7. The following point of diversion is temporarily added to License 2033:

Harvey O. Banks Pumping Plant via the Clifton Court Forebay located as follows:
California Coordinate System, Zone 3, NAD 83,
North 2,126,440 feet and East 6,256,425 feet,
being within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 20, T1S, R4E, MDB&M.
8. The following point of redirection is temporarily added to License 2033:

San Luis Reservoir located as follows:
California Coordinate System, Zone 3, NAD 83,
North 1,845,103 feet and East 6,393,569 feet,
being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 15, T10S, R8E, MDB&M.
9. Diversion of water at Banks Pumping Plant is subject to compliance by the operators with the objectives currently required of DWR set forth in Tables 1, 2, and 3 on pages 181-187 of Revised Water Right Decision 1641 (D-1641), or any future State Water Board Order or decision implementing Bay-Delta water quality objectives at that point of diversion, including compliance with the various plans required under D-1641. Diversion of water is also subject to compliance by DWR

with all applicable Biological Opinions and court orders and any other conditions imposed by other regulatory agencies applicable to these operations.

Diversion of water at Banks Pumping Plant 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.

10. During the period of transfer, Petitioner shall comply with applicable terms and conditions imposed by other regulatory agencies. This Order shall not be construed as authorizing the violation of any agreement entered into by the Petitioner.
11. If at any time prior to, or during the period of the transfer, the State Water Board issues notification that water is unavailable for diversion pursuant to License 2033, the transfer shall immediately cease. No transfer credit shall accrue for groundwater substitution during a period of water unavailability.
12. Within 90 days of the completion of the transfer, GHMWC 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. General locations where the transferred water was used;
 - b. The daily average rate of water made available for transfer pursuant to this Order;
 - c. The daily average diversion rate of water directly diverted pursuant to License 2033 during the transfer period;
 - d. An accounting by average diversion rate and total volume of any water temporarily retained by DWR in Lake Oroville and delivered pursuant to DWR's water rights.
 - e. The daily average streamflow measured at the nearest representative gaging station on the Feather River;
 - f. The daily average pumping rate of groundwater pumped by GHMWC in excess of that which would have been pumped in the absence of this transfer; and
 - g. Groundwater elevations within the vicinity of the GHMWC wells utilized for the transfer prior to the proposed transfer. Each monitoring well will be identified using the same numbering and naming convention as used by the Sutter County GSA. The methods and units used to measure groundwater elevations will be consistent with those utilized by the Sutter County GSA.

13. GHMWC shall develop and submit to the Deputy Director for Water Rights, by July 1 of each year following 2020, a map defining the groundwater elevations within the vicinity of GHMWC, until such time as these elevations correspond to pre-transfer levels. Each monitoring well will be identified using the same numbering and naming convention as used by the Sutter County GSA. The methods and units used to measure groundwater elevations will be consistent with those utilized by the Sutter County GSA.

14. 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 diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

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

15. This Order does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a “take” will result from any act authorized under this temporary transfer, the Petitioner shall obtain authorization for an incidental take permit prior to construction or operation. The Petitioner shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.

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

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: JUN 04 2020