

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

DIVISION OF WATER RIGHTS

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

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

COUNTIES: Placer and Sacramento

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

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

1.1 Description of the Transfer

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

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

2.0 BACKGROUND

2.1 Substance of PCWA's Permit

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

2.2 Middle Fork Project (MFP)

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

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

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

2.3 Lower American River Water Forum Agreement

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

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

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

2.4 EBMUD

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

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

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

2.5 Proposed Temporary Changes

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

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

2.6 Refill Agreement with Reclamation and Warren Act Agreement

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

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

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

2.7 Governor's Proclamations of a Drought State of Emergency

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

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

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

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

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

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

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

2.8 State Water Board Water Unavailability Actions

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

3.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

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

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

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

5.0 REQUIRED FINDINGS OF FACT

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

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code section 1725 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.” PCWA’s petition states that the 12,000 af of proposed transfer water is currently held in storage in MFP reservoirs and would remain in storage absent the transfer.

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

5.2 No Injury to Other Legal Users of Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1727, subd. (b)(1).) The water proposed for transfer pursuant to this temporary change consists of water previously stored in French Meadows Reservoir and Hell Hole Reservoir pursuant to Permit 13856. In the absence of the proposed transfer, the water would remain in storage for future use by PCWA and would not be available to other water users. Since the water would otherwise have remained in storage, there will be no changes in return flows as a result of the transfer.

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

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

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

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

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

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

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

6.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2010-0029.

7.0 CONCLUSIONS

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

I conclude that, based on the available evidence:

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

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change for the transfer of up to 12,000 af of water under Permit 13856 is approved.

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

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

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

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

9. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change order, including method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

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

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

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: July 24, 2015

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF PERMIT 13856 (APPLICATION 18085)
PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF 35,000 ACRE-FEET OF WATER
FROM PLACER COUNTY WATER AGENCY TO WESTLANDS WATER DISTRICT**

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

COUNTIES: Placer and Sacramento

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On May 23, 2014, Placer County Water Agency (PCWA or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a petition for temporary change under Water Code Section 1725, et seq. PCWA has requested to transfer 35,000 acre-feet (af) of water to Westlands Water District (Westlands). The transfer would begin around mid-June of 2014 and would be complete by September 30, 2014. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

1.1 Description of the Transfer

PCWA proposes to transfer 35,000 af of Middle Fork American River Project (MFP) water ("transfer water") currently stored in Hell Hole Reservoir on the Rubicon River and French Meadows Reservoir on the Middle Fork American River (MFAR) to Westlands for designated beneficial uses within the Westlands service area.

PCWA proposes the following temporary (one year or less) changes in the place of use (POU) and point(s) of diversion (POD) in Permit 13856 to accomplish the transfer of water to Westlands:

- 1) The temporary addition of the United States Bureau of Reclamation's (Reclamation) Central Valley Project (CVP) Bill Jones Pumping Plant intake facility and/or the California Department of Water Resources' (DWR) State Water Project (SWP) Harvey O. Banks Pumping Plant as POD(s) for Westlands to receive PCWA transfer water.
- 2) The temporary addition of San Luis Reservoir (SLR) as a POD and for temporary storage of transfer water.
- 3) The temporary addition of the Westlands service area for consumptive and beneficial uses of the transfer water.

2.0 BACKGROUND

2.1 Substance of PCWA's Permit

Permit 13856 (Application 18085) authorizes direct diversion and storage/consumptive use of 249,000 af of MFP water as described below: (a) direct diversion of 1,225 cubic feet per second (cfs) from about November 1 through about July 1 of the succeeding year from North Fork American River; (b) 25,000 af by offstream storage, at a maximum rate of diversion of 400 cfs from about November 1 of each year to about July 1 of the succeeding year from Duncan Creek to French Meadows Reservoir; (c) 95,000 af by storage from about November 1 of each year to about July 1 of the succeeding year from the MFAR at French Meadows Reservoir; and (d) 129,000 af by storage from about November 1 of each year to about July 1 of the succeeding year from the Rubicon River at Hell Hole Reservoir. The authorized purposes of use include: irrigation, municipal, industrial, recreation, and incidental domestic use. The authorized place of use is shown on PCWA's map set dated July 31, 1996. Permit 13856 expired on December 1, 2007, and on January 7, 2008 PCWA filed a petition for extension of time. Since the petition for extension of time is currently pending before the State Water Board, the Division will consider the maximum amount of water put to beneficial use at the time of permit expiration for the purposes of the proposed temporary change.

On May 27, 2014, the State Water Board issued curtailment notices for those diverting water in the Sacramento River and San Joaquin River watersheds with post-1914 water rights. However, releases of water collected to storage prior to issuance of the curtailment notice, such as in the case of this transfer, are not subject to curtailment.

2.2 The Middle Fork Project

PCWA owns and operates the MFP and holds appropriate water rights for the MFP pursuant to Permits 13856 and 13858 (Applications 18085 and 18087). The permits allow for the combined diversion and storage of 315,000 af per annum of MFP water held in two storage reservoirs (French Meadows Reservoir and Hell Hole Reservoir). The MFP is a multi-purpose project designed to conserve waters of the MFAR, the Rubicon River, and tributaries for domestic, municipal, industrial, recreational, and irrigation uses, as well as for hydroelectrical power generation. The MFP's principal project features include French Meadows Reservoir and Hell Hole Reservoir (French Meadows Reservoir is located on the MFAR and Hell Hole Reservoir is located on the Rubicon River); five associated diversion dams (Duncan, North Fork Long Canyon, South Fork Long Canyon, Middle Fork Interbay, and Ralston Afterbay); and five power plants (French Meadows, Hell Hole, Middle Fork, Ralston, and Oxbow).

For the purposes of the proposed 35,000 af transfer, PCWA will be solely exercising Permit 13856, which allows for the storage and consumptive use of 249,000 af of MFP water (25,000 af at the Duncan Creek diversion; 95,000 af in French Meadows; and 129,000 af in Hell Hole Reservoir).

PCWA has determined that it has at least 35,000 af of surplus water stored in the MFP. PCWA's determination was reached by review of current MFP storage levels, modeled inflow, and projected MFP operations data for 2014 and after accounting for downstream demands (e.g., water supply deliveries, recreation releases, minimum instream flow requirements, evaporative losses, and discretionary [planned] hydropower generation, etc.). As of May 21, 2014, PCWA had approximately 221,600 af of water held in storage in its MFP reservoirs.

2.3 Lower American River Water Forum Agreement

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

in the American River watershed, with a focus on the lower American River from Folsom Reservoir/Lake Natoma downstream to the confluence with the Sacramento River, which is a critical reach for threatened Central Valley steelhead and fall-run Chinook salmon.

Due to the current drought, PCWA is being allocated only 59% of its 110,400 af of contracted water supply with Pacific Gas & Electric Company (PG&E) through the Drum-Spaulding Project. The Drum-Spaulding Project supply is the main source for PCWA Service Zones 1, 3, and 5. PCWA will be taking 34,000 af of its 35,500 af pumping capacity at the American River Pump Station (ARPS) in 2014 to help replace the reduced water supplies for areas typically supplied by the Drum-Spaulding Project.

In accordance with the WFA, PCWA must send "replacement" water downstream from its MFP storage reservoirs to benefit the Lower American River. The amount of replacement water would be based on the amount of water pumped at the ARPS in 2014. A portion of the proposed transfer water would be used for the purposes of replacement water or environmental releases pursuant to the WFA. The WFA specifies that given PCWA's demands at the ARPS during the driest years, PCWA will re-operate its MFP and replace water to the lower American River under terms acceptable to PCWA. The WFA also requires that the source of this replacement (in drier years) would be water not normally released from the MFP (e.g., previously stored water).

2.4 Westlands

Westlands was formed in 1952 and encompasses more than 600,000 acres of farmland in western Fresno and Kings Counties. According to information provided in the petition, Westlands is interested in augmenting its water supply with PCWA's transfer water because CVP contract water is virtually unavailable (zero percent south of Delta contracted CVP allocations) in 2014. The additional water would provide Westlands' agricultural customers with a critical water supply for irrigation of crops. Westlands serves approximately 600 family-owned farms that average 900 acres in size and which produce 60 high quality commercial food and fiber crops. Approximately 50,000 people live and work in the communities dependent on Westlands's agricultural economy. The communities in and near Westlands' boundaries include Mendota, Huron, Tranquility, Firebaugh, Three Rocks, Cantua Creek, Helm, San Joaquin, Kerman, Lemoore, and Coalinga.

2.5 Proposed Temporary Changes

PCWA proposes to transfer 35,000 af of MFP water currently stored in Hell Hole Reservoir and French Meadows Reservoir to Westlands. To accomplish the water transfer, the Petitioner has requested the following changes in the place of use and addition of PORDs under PCWA's water right Permit 13856:

- 1) The temporary addition of the CVP Bill Jones Pumping Plant intake facility and/or the SWP Harvey O. Banks Pumping Plant as PORD(s).
- 2) The temporary addition of San Luis Reservoir as a PORD and for temporary storage of transfer water.
- 3) The temporary addition of the Westlands service area for consumptive and beneficial uses of the transfer water.

2.6 MFP Carryover Storage and Refill Reservation

PCWA's typical combined end-of-year carryover storage target (storage low point) is 150,000 af in its MFP reservoirs (French Meadows and Hell Hole). As a result of previous refill agreements associated with the 2013 Westlands transfer of 20,000 af and a 2014 transfer of 5,000 af to East Bay Municipal Utility District (EBMUD), PCWA's current MFP carryover target for the 2014 water year is 125,000 af. The proposed transfer to Westlands would carry an additional 35,000 af deficit in carryover until conditions in PCWA's refill agreements allow refill of the deficits (e.g., Folsom Reservoir reaches flood control levels or completely fills). The 2014 total carryover target with all previous and the currently proposed transfer to Westlands would result in a 2014/2015 carryover target of 90,000 af. According to information provided in the petition, the carryover level of 90,000 af remains well above the minimum carryover level required by the Federal

Regulatory Commission (FERC) of total combined storage (28,000 af in French Meadows and 26,000 af in Hell Hole) and is sufficient to meet PCWA's 2015 downstream demands (e.g., consumptive water supply, minimum instream flow requirements, etc.) if 2015 becomes a consecutive dry year.

PCWA will enter into a Reservoir Refill Agreement with Reclamation to ensure that other downstream legal users of water with vested rights in the American River watershed are not unreasonably impacted by the proposed transfer. Reclamation will coordinate with the Department of Water Resources (DWR) to ensure refill conditions are met and SWP or CVP conditions are not negatively impacted by the transfer.

To accomplish the transfer, Westlands will need to execute a Warren Act contract with Reclamation in order to temporarily store (less than 30 days) the transfer water in Folsom Reservoir prior to its release. As part of the Warren Act contract, Reclamation has the discretion to determine whether a National Marine Fisheries Service (NMFS) and/or United States Fish and Wildlife Service (USFWS) Section 7 consultation will be necessary regarding federally listed threatened and endangered species.

2.7 Governor's 2014 Drought Emergency Proclamations

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

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

On April 25, 2014, the Governor issued a Proclamation of a Continued State of Emergency (April Proclamation). The April Proclamation reiterates the Governor's direction to DWR and the State Water Board to immediately and expeditiously process requests to move water to areas of need, including requests involving voluntary water transfers. In addition, the Governor suspended certain regulatory requirements of the Water Code to allow these actions to take place as quickly as possible. The 30-day comment period provided in section 1726(f) was suspended in order to expeditiously process temporary transfers and was replaced with a 15-day comment period.

3.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

On May 30, 2014, public notice of the petition for temporary change was provided through the Division's website and via the State Water Board's LYRIS e-mail notification system. In addition, on May 30, 2014, the Petitioner noticed the project via publication in The Sacramento Bee newspaper and mailed the notice via first class mail to interested parties.

3.1 Comments by Richard Morat

On June 5, 2014, the Division received a comment letter from Richard Morat regarding PCWA's petition for temporary transfer. Mr. Morat's comments are summarized as follows: a) concern that a water transfer from the northern to southern part of the State, which involves transport through the Sacramento River and Delta during a dry year is not normal under a natural hydrograph; b) the proposed transfer requires additional operation of fish salvage operations at export facilities; c) potential for secondary impacts of the transfer on conservation storage replenishment and the American River, Sacramento River, and Delta since replenishment could delay and reduce environmental/aquatic resources recovery from the drought; and d) a refill agreement is necessary to address conservation storage replenishment so that refill occurs only when flows are surplus to the lower American River, Sacramento River, and Delta.

3.2 Comments by Reclamation

On June 12, 2014, Reclamation submitted a comment letter regarding PCWA's proposed transfer to Westlands. Reclamation expressed concern regarding the effects of PCWA's proposed transfer on Folsom Reservoir cold water pool temperature management. Reclamation previously commented on PCWA's transfer to EBMUD, which was approved on April 2, 2014. Reclamation cited its March 24, 2014 comment letter on the transfer to EBMUD, which states "...Reclamation finds that the timing of the Petitioner's July and August transfer could adversely impact Folsom Reservoir cold water pool temperature operations and affect the operations of the Central Valley Project based on similar conditions that occurred in the years of 2001 and 2008. In these years, Reclamation observed inflow river temperature exceeding the downstream water temperature standard and exacerbating cold water pool management." Reclamation requested that the following items be conditions of approval for the proposed transfer to Westlands in order to protect its water rights and operations on the American River:

- The transfer is contingent upon a refill agreement being signed and adopted between Reclamation and the Petitioner. Any order approving the transfer shall include a term requiring the transfer be conducted consistent with that refill agreement.
- Westlands will execute a Warren Act contract with Reclamation prior to introduction of water appropriated under Permit 15836 into Folsom Reservoir.
- Petitioner needs to coordinate with Reclamation on the Folsom operations schedule as part of on-going real-time operations for the CVP. No water can be transferred unless Reclamation concurs that the transfer will not result in increased risks of negative impacts to the cold water pool at Folsom Reservoir resulting from incoming transfer water.
- The proposed water transfer shall be carried out in compliance with all existing regulatory constraints in the Delta and shall cause no harm to other legal water users or impact on water quality.

3.3 Comments by Outdoor California

On June 13, 2014, Nathan Rangel, president of Outdoor California, submitted a letter in support of PCWA's proposed transfer to Westlands. Mr. Rangel indicated that the proposed transfer would allow greater whitewater rafting opportunities this summer on approximately 15 miles of river by ensuring a reliable flow in the MFAR and would also prevent potential overcrowding on the South Fork American River. The letter indicated that PCWA's transfer could benefit public rafting on the MFAR by extending the number of hours per day that rafting flows would be provided. Without the transfer, PCWA has guaranteed only the minimum hours per day that rafting flows would be provided. Mr. Rangel also noted that the transfer water would extend weekend rafting opportunities after Labor Day.

3.4 PCWA's Response to Comments

On June 27, 2014, PCWA responded separately to the comments of Richard Morat and of Reclamation. In its response to Mr. Morat, PCWA indicated that the transfer would not have an unreasonable affect on fish, wildlife, and other instream beneficial uses since it would be conducted in a manner that is consistent with the following: (a) all applicable state and federal regulations for the storage and conveyance of non-CVP transfer water from PCWA to Westlands; (b) a Warren Act Contract executed by and between Westlands and Reclamation; (c) a Refill Agreement executed by and between PCWA and Reclamation; (d) Water Code section 1725-1732; (e) the Public Trust Doctrine; (f) state and federal endangered species acts; (g) current Biological Opinion(s) (BOs) for the continued operation of CVP and SWP storage, conveyance, and export facilities; and (h) the State Water Board-approved Temporary Urgency Change Order for the CVP and SWP.

In its response letter to Reclamation, PCWA indicated its concurrence with the conditions which Reclamation identified as necessary for the transfer approval.

3.5 State Water Board Response to Comments

In evaluating and processing a transfer petition, the State Water Board is required to make findings pursuant to Water Code section 1727. This section of the Water Code directs the Board to approve a temporary change if it determines that a preponderance of the evidence shows both of the following: (1) the proposed temporary change would not injure any legal user of 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; and (2) the proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses. The Petitioner has the burden of establishing that a proposed temporary change would comply with the items listed above. The State Water Board has considered the comments received and has reviewed the information in the record in evaluating the proposed transfer.

In regard to Mr. Morat's comments, the State Water Board's response can be found in a letter entitled "Comments on 2014 Temporary Transfers of Water" that is included by reference and is located in the file for Application 18085. The Division's response letter addresses Mr. Morat's comments as summarized in Section 3.1. This Order contains a term, which requires PCWA to enter into a Refill Agreement with Reclamation to address potential refill concerns in PCWA's MFP reservoirs prior to any transfer of water through the Delta Pumps.

Insofar as general impacts to public trust resources are concerned, Reclamation has indicated that depending on the timing of the transfer, there could be impacts to the cold water pool in Folsom Reservoir due to transfer of water. An order condition provides for real-time monitoring and determination of cold water impacts on a weekly basis (or other time-step acceptable to Reclamation and the transferor). This will ensure that the transfer stops at any time that there could be impacts to the cold water pool, but allows resumption during any time period when impacts will not occur. With the incorporation of this term and a term requiring redirection of water at the Delta Pumps to be subject to compliance with all applicable BOs, and any other conditions imposed by other regulatory agencies, there will be no unreasonable affect to fish, wildlife, or other instream beneficial uses. In addition, the transfer water will assist PCWA in meeting the WFA fishery obligations in the lower American River from Folsom Reservoir to the PORD(s) in the Delta.

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

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

5.0 REQUIRED FINDINGS OF FACT

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

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

removed from use in the downstream water supply as a result of direct diversion.” PCWA’s petition states that the 35,000 af of proposed transfer water is currently held in storage in MFP reservoirs and would remain in storage absent the transfer.

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

5.2 No Injury to Other Legal Users of Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1727, subd. (b)(1).) The water proposed for transfer pursuant to this temporary change consists of water previously stored in French Meadows Reservoir and Hell Hole Reservoir pursuant to Permit 13856. In the absence of the proposed transfer, the water would remain in storage for future use by PCWA and would not be available to other water users. Since the water would otherwise have remained in storage, there will be no changes in return flows as a result of the transfer.

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

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

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

Before approving a temporary change due to a transfer of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).)

PCWA has indicated that although the primary purpose of the transfer is for consumptive and beneficial municipal and industrial uses within the Westlands service area, the transfer release from the MFP reservoirs will improve water quality and provide numerous benefits for many instream beneficial uses including fish and wildlife resources. The transfer releases are in addition to PCWA’s existing downstream flow requirements and meet PCWA’s WFA commitments to release additional water under certain conditions in dry years to preserve and protect the lower American River.

Rediversion of water at the Delta pumping plants pursuant to this Order is subject to compliance by the SWP and CVP project operators with the objectives currently required of DWR and Reclamation set forth in Tables 1, 2, and 3 on pages 181-187 of Decision 1641 (D-1641), including compliance with the various plans required under D-1641. Rediversion at these facilities pursuant to this Order is also subject to compliance by the operators with all applicable BOs and any court orders applicable to these operations.

There is a potential for the transfer to negatively affect the cold water pool in Folsom Reservoir if water is transferred after June 1, 2014. As indicated in Section 3.5, the Division will condition approval of the transfer with a term to ensure that there are no negative impacts on Folsom Reservoir’s cold water pool due to potential input of warmer water associated with the transfer.

The release of 35,000 af of transfer water may provide multiple benefits in the North and Middle Forks of the American River, such as achieving drier-year flow augmentation objectives in the WFA, enhancing drier-year hydropower generation, and enhancing commercial and recreational rafting in the MFAR.

The Order also contains a condition to ensure that water used under the transfer is used in a method consistent with good water management practices and contains a requirement for Westlands to implement all reasonable measures to prevent subsurface drainage of poor quality water to the San Joaquin River.

With the incorporation of the terms and conditions listed in the Order, there is no evidence in the record that the proposed transfer of water would unreasonably affect fish, wildlife, or other instream beneficial uses. In addition to ensuring that the Department of Fish and Wildlife (DFW) received copy of the petition, on June 2, 2014, Division staff inquired whether DFW had any concerns related to the temporary change. DFW did not submit comments or relay any concerns regarding the temporary change.

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

6.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2010-0029.

7.0 CONCLUSIONS

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

I conclude that, based on the available evidence:

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

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change for the transfer of 35,000 af of water under Permit 13856 is approved.

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

1. The transfer is limited to the period commencing on the date of this Order and continuing for one year. No water can be transferred under this Order unless Reclamation concurs that the transfer will not result in increased risks of negative impacts to the cold water pool at Folsom Reservoir resulting from incoming transfer water. Such approval may be given on a weekly basis or other time-step acceptable to Reclamation and the transferor. Transferor shall provide documentation to the Deputy Director for Water Rights by email of any Reclamation approvals issued after the date of issuance of this Order. Petitioner shall coordinate with Reclamation on the Folsom operations schedule as part of on-going real-time operations for the CVP.

- The transfer period is further limited to the period allowed pursuant to any applicable BOs or Endangered Species Act (ESA) consultations (or informal consultations) related to transfers at State and federal Delta pump facilities. Permittee is responsible under its water right for meeting all requirements of the applicable ESA for its diversion period allowed pursuant to the BOs or consultation 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 the DFW, NMFS, and/or USFWS.
2. The place of use under Permit 13856 is temporarily expanded to include the service area of Westlands as shown in Attachment C submitted with the petition.
 3. The Harvey O. Banks Pumping Plant (located within the SW $\frac{1}{4}$ of Section 35, T1S, R3E, MDB&M and Bill Jones Pumping Plant (located within the SW $\frac{1}{4}$ of Section 35, T1S, R3E, MDB&M) (collectively as "Delta Pumps") are temporarily added as authorized PORDs.
 4. San Luis Reservoir (located within the SE $\frac{1}{4}$ of Section 7, T10S, R9E, MDB&M) is temporarily added as a PORD and place of storage for purposes of the transfer.
 5. The State Water Board has issued a curtailment notice for Permit 13856. Accordingly, only water collected to storage prior to issuance of the curtailment notice may be transferred.
 6. Rediversion 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 State Water Board Revised Decision 1641 (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. Rediversion of water is also subject to compliance by DWR and Reclamation with all applicable BOs and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
 7. Water may not be transferred through the Delta Pumps until Petitioner has executed a Refill Agreement between Reclamation and Petitioner to address potential refill concerns in PCWA's MFP reservoirs. The executed Refill Agreement must be acceptable to DWR. Documentation that an acceptable Refill Agreement has been agreed to by Reclamation, DWR, and Petitioner shall be submitted to the Division within 15 days of the date of execution of the agreement.
 8. Petitioner shall ensure that Westlands has executed a Warren Act contract with Reclamation prior to transferring water into Folsom Reservoir under this Order. Petitioner shall provide confirmation from Reclamation and Westlands to the Deputy Director for Water Rights (email confirmation is acceptable) that this condition has been complied with, within 30 days of issuance of this Order.
 9. 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.
 10. The Petitioner shall provide the Deputy Director for Water Rights a monthly report describing the transfer of water pursuant to this Order until such time as the transfer has been completed. The report shall include the following information:
 - a. The duration and magnitude of the increased releases of water and the corresponding volume of water released from MFP reservoirs as a result of this transfer (reported on a daily basis);
 - b. The average daily release rates and corresponding volume of water released from Folsom Reservoir as a result of this transfer (reported on a daily basis); and
 - c. Recognizing that reservoir refill will occur after the transfer ends, monthly reporting of reservoir refill is not required during the transfer period. However, Petitioner shall provide annual reporting by July 1 of each year on monthly reservoir refill until the Reservoir Refill Agreement has been satisfied. This occurs when the value of the Refill Reservation as defined in the Refill Agreement equals zero. These reports shall include the daily values of the Refill Reservation.

If any of the above required information is in the possession of DWR and Reclamation and has not been provided to the Petitioner in time for inclusion in a monthly or annual report, Petitioner shall provide the information to the Deputy Director within 30 days of receipt.

11. Water made available pursuant to this Order shall be used in a method consistent with good water management practices. In addition, Westlands shall implement all reasonable measures to prevent subsurface drainage of poor quality water to the San Joaquin River. Reasonable measures shall include water conservation, recapture and reuse of water, and use of groundwater to reduce hydraulic pressure in appropriate areas to the extent feasible.
12. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change order, including method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

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

13. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California 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 Petitioner shall obtain authorization for an incidental take permit prior to construction or operation. Petitioner shall be responsible for meeting all requirements of the applicable ESA for the temporary transfer authorized under this Order.
14. I reserve jurisdiction to supervise the transfer, exchange, and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JUL 08 2014

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

DIVISION OF WATER RIGHTS

**IN THE MATTER OF PERMITS 13856 AND 13858 (APPLICATIONS 18085 AND 18087)
PETITIONS FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 20,000 ACRE-FEET OF WATER
FROM PLACER COUNTY WATER AGENCY TO WESTLANDS WATER DISTRICT**

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

COUNTY: Placer and Sacramento

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITIONS

On April 23, 2013, Placer County Water Agency (PCWA or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), two petitions for Temporary Change under Water Code Section 1725, et seq. Pursuant to the petitions, PCWA seeks to transfer up to a combined total of 20,000 acre-feet (af) of water to Westlands Water District (WWD). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

1.1 Description of the Transfer

The water to be transferred is currently stored in French Meadows Reservoir and Hell Hole Reservoir (the major storage facilities of PCWA's Middle Fork Project) under Permits 13856 and 13858 (Applications 18085 and 18087). The Petitioner proposes to transfer up to 10,000 af of water under water right Permit 13856 and up to 10,000 af of water under Permit 13858 to WWD. The transfer water would be released from PCWA's Ralston Afterbay Reservoir on the Middle Fork American River and would be routed through Folsom Reservoir, thence the lower American River for eventual rediversion at the Harvey O. Banks Pumping Plant and/or Bill Jones Pumping Plant (Delta Pumps) for conveyance to WWD. Transfer releases would be scheduled in cooperation with the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation).

On April 26, 2013, PCWA submitted a request to amend the petitions for change based on a requirement by Reclamation to execute a Warren Act Agreement with WWD authorizing the storage of transfer water in Folsom Reservoir, which is a Reclamation facility. Reclamation requested PCWA to modify its operational plan for release of the 20,000 af of transfer water to Folsom Reservoir. The modified operation plan would require PCWA to release not less than 10,000 af in May and the balance of the 20,000 af in June, rather than scheduling the releases over July, August, and September, as originally proposed in the petitions, in order to provide enhanced environmental benefits and flexibility in Reclamation operations. PCWA plans to provide the early release of water into Folsom Reservoir once Reclamation has authorized the Warren Act Agreement.

In the absence of this transfer, the 20,000 af of water would remain in storage in French Meadows Reservoir and Hell Hole Reservoir.

2.0 BACKGROUND

2.1 Substance of PCWA's Permits

Permits 13856 and 13858 authorize PCWA to divert to storage up to a maximum of 133,700 af per annum (afa) in French Meadows Reservoir and up to 208,400 afa in Hell Hole Reservoir. These permits also authorize direct diversion of 2,025 cubic feet per second (cfs) between November 1 and July 1 of each year. The authorized purposes of use under Permits 13856 and 13858 are irrigation, municipal, industrial, recreation, and incidental domestic use. The authorized place of use is shown on PCWA's map set dated July 31, 1996.

2.2 The Middle Fork Project

PCWA owns and operates the Middle Fork Project (MFP), on the Middle Fork American River, Rubicon River, and tributaries for domestic, municipal, industrial, recreational, irrigation uses, as well as for the generation of electrical energy. The MFP consists of the French Meadows and Hell Hole Reservoirs, with a combined storage capacity of approximately 342,000 af, and associated canals, pipelines, powerhouses, and regulating reservoirs. French Meadows Reservoir is located on the Middle Fork American River and Hell Hole Reservoir is located on the Rubicon River (which is tributary to the Middle Fork American River).

Water stored in French Meadows Reservoir may be pumped via underground pipeline to Hell Hole Reservoir and PCWA uses Hell Hole reservoir as the release point for most of the water it uses for power generation.

2.3 Proposed Temporary Changes

The proposed temporary change would: 1) allow rediversion of transfer water¹ at the State Water Project (SWP) and/or federal Central Valley Project (CVP) Delta pumps; and, 2) add the service area of WWD to the authorized place of use under Permits 13856 and 13858 for irrigation.

2.4 Governor's 2013 Executive Order to Streamline Approvals for Water Transfers

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

3.0 PUBLIC NOTICE OF THE PROPOSED TEMPORARY CHANGE

On May 3, 2013, 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; and 3) via the State Water Board's LYRIS email notification program. In addition, on April 30, 2013, the Petitioner noticed the project via publication in the Sacramento Bee newspaper.

¹ Less Delta carriage and conveyance losses.

3.1 Joint Comments by California Water Impact Network, California Sportfishing Protection Alliance and AquAlliance (Environmental Commenters)

On June 3, 2013, the environmental commenters indicated their concerns regarding the transfer proposal. The concerns extend beyond the scope of the current transfer, and encompass all pending 2013 water transfers being processed by the State Water Board. To expedite transfer processing, the concerns are not repeated herein; however, the State Water Board response letter, dated the same date as this order, is incorporated by reference. The response letter details the issues raised by the environmental commenters.

State Water Board Response:

The State Water Board response letter identifies a need to evaluate the following issues in the present order: (a) whether there is a change in return flow associated solely with the transfer, and (b) whether the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee in the absence of the proposed temporary change or conserved pursuant to Water Code section 1011.

In addition, the response letter indicates that use of the Delta Pumps for transfer purposes should be conditioned on compliance by DWR and Reclamation with Decision 1641, all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

The objection is addressed upon a finding that: (a) no change in return flows is occurring, and (b) the transfer only involves water that would have been consumptively used or stored. Approval of the petition is also contingent on inclusion of the Delta pumping condition. The required evaluations are found in Section 5 of this order.

3.2 Comments of Richard Morat

On May 4, 2013, Richard Morat commented on the proposed transfer. The Morat comments were similar to, but not as extensive as, the environmental commenters concerns.

State Water Board Response:

The State Water Board response letter, dated the same date as this order, refers Mr. Morat to the more extensive responses provided to the environmental commenters. The information identified in item 3.1 also addresses the Morat objection.

3.3 Comments of DWR

On May 23, 2013, DWR objected to the proposed transfer based on potential injury to its water rights. DWR is concerned that the transfer has the potential to impact the SWP if the water released in 2013 and conveyed to WWD is refilled at times when it will diminish the flows otherwise available to the SWP under its permitted water rights. PCWA has agreed to execute a refill agreement with Reclamation to account for any potential refill impacts. DWR requested that any transfer order include a condition requiring the execution of a refill agreement acceptable to DWR.

State Water Board Response:

Refill criteria are needed to ensure that the refill of Folsom Reservoir (Middle Fork Project) resulting from the proposed temporary change does not adversely impact operations and/or water rights of the SWP or CVP or other downstream water rights. This Order includes a condition requiring the execution of a refill agreement acceptable to DWR.

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

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

5.0 REQUIRED FINDINGS OF FACT

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

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code section 1725 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.” PCWA’s petitions state that the 20,000 af of proposed transfer water is currently in storage in the MFP reservoirs and would remain in storage absent the transfer.

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

5.2 No Injury to Other Legal Users of Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1727, subd. (b)(1).) The water proposed for transfer pursuant to this temporary change consists of water previously stored in French Meadows Reservoir and Hell Hole Reservoir pursuant to Permits 13856 and 13858. In the absence of the proposed transfer, the water would remain in storage for future use by PCWA and would not be available to other water users. Since the water would otherwise have remained in storage, there will be no changes in return flows as a result of the transfer. Therefore, no injury to other legal users of water would occur since the water is to be transferred.

PCWA will enter into a reservoir refill agreement with Reclamation that is acceptable to DWR ensuring that future refill of any storage space in Folsom Reservoir created by the transfer will not reduce the amount of water that Reclamation, DWR, or other water users could otherwise divert under their water rights.

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

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

Before approving a temporary change due to a transfer of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) The Department of Fish and Wildlife (DFW) was provided a copy of the subject petitions and did not submit comments or concerns regarding the temporary change. The Petitioner has stated that the early release of 20,000 af of MFP water over a 46-day period in May and June will provide enhanced environmental benefits to the coldwater pool in Folsom Reservoir, which would assist Reclamation in maintaining favorable temperature conditions for aquatic species in the lower American River as water is released to the transferee.

Rediversion of water at the Delta pumping plants pursuant to this Order is subject to compliance by the SWP and CVP project operators with the objectives currently required of DWR and Reclamation set forth in Tables 1,2, and 3 on pages 181-187 of Decision 1641 (D-1641), including compliance with the various plans required under D-1641. Rediversion at these facilities pursuant to this Order is also subject to compliance by the operators with all applicable biological opinions and any court orders applicable to these operations.

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

6.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2010-0029.

7.0 CONCLUSIONS

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

I conclude that, based on the available evidence:

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

ORDER

NOW, THEREFORE, IT IS ORDERED that the petitions filed for temporary change for the transfer of up to 10,000 af of water under each permit are approved.

All existing terms and conditions of Permits 13856 and 13858 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on the date of this Order and continuing for one year.
2. The place of use under Permits 13856 and 13858 is temporarily expanded to include the service area of WWD as shown on map submitted with the petition and on file with the State Water Board under Application 18085.
3. The Delta Pumps are temporarily added as authorized points of diversion under Permits 13856 and 13858.
4. Rediversion 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 State Water Board Revised Decision 1641 (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. Rediversion of water is also subject to compliance by DWR and Reclamation with all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
5. Water may not be transferred through the Delta pumps until Petitioner has implemented a Refill Agreement between Reclamation and Petitioner to address potential refill concerns in Folsom Reservoir. The executed Refill Agreement must be acceptable to DWR. Documentation that an acceptable Refill Agreement has been agreed to by Reclamation, DWR and Petitioner shall be submitted to the Division within 15 days of the date of execution of the agreement.
6. 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.
7. Within 90 days of the completion of the transfer, but no later than October 1, 2014, the petitioner shall provide the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:
 - a. The duration and magnitude of the increased releases of water and the corresponding volume of water released from Hell Hole Reservoir as a result of this transfer (reported on a daily basis);
 - b. The average daily release rates and corresponding volume of water released from Folsom Reservoir as a result of this transfer (reported on a daily basis); and
 - c. The value of the Refill Reservation as defined in the Refill Agreement (reported on a daily basis).

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

8. 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.

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

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
JAMES W. KASSEL FOR

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JUN 27 2013

P 13856

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

ORDER

Application 18085 Permit 13856

**ORDER APPROVING CHANGE IN THE PLACE OF USE,
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 13856 was issued to Placer County Water Agency on January 10, 1963, pursuant to Application 18085.
2. A petition to change the place of use of Permit 13856 was filed with the State Water Resources Control Board (SWRCB) on July 31, 1996 and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on October 18, 1996 and protest issues have been resolved. Resultant protest resolution agreements have been incorporated into this order.
3. The SWRCB has determined that the petition to change the place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A paragraph should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
5. The paragraph relating to the continuing authority of the SWRCB should be updated to conform to section 780(a), title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The place of use under Permit 13856 shall be amended as follows:

The place of use is situated in portions of Placer and Sacramento counties as shown on the Placer County Water Agency map set dated July 31, 1996, on file with the SWRCB.

2. Paragraph 8, the continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB 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 SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

3. An Endangered Species term shall be added to Permit 13856 to read as follows:

This permit 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 water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)

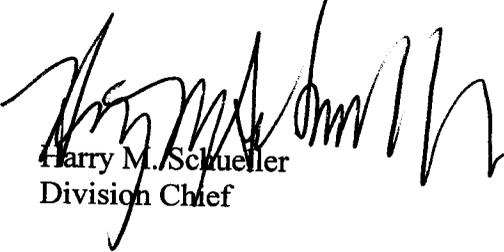
3. The following term shall be added to Permit 13856 to read as follows:

Permittee shall comply with provisions of the following settlement agreements on file with the SWRCB:

- (a) *Agreement for Dismissal of Protest by California Department of Water Resources to Placer County Water Agency's Petition before State Water Resources Control SWRCB for Change in Place of Use under Permits Nos. 13856 (App. No. 18085) and 13858 (App. No. 18087) executed on September 30, 1999;*
- (b) *Stipulated Agreement for Dismissal of Bureau of Reclamation's Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed on September 8, 1998;*
- (c) *SETTLEMENT AGREEMENT CONCERNING PLACER COUNTY WATER AGENCY'S PETITION TO EXPAND ITS PLACE OF USE UNDER WATER RIGHT PERMITS 13856 AND 13858 executed between Placer County Water Agency and the County of Sacramento (on March 23, 1999); as well as the City of Sacramento (on April 13, 1999); and*
- (d) *Stipulated Agreement for Dismissal of Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed between the Placer County Water Agency and the Friends of the River, Save the American River Association, and the Sierra Club, Mother Lode Chapter (on September 16, 1999); as well as Mr. William Berry (on November 20, 1999).*

Inclusion in this permit of provisions of the referenced agreements shall not be construed as affecting the enforceability, as between the parties, of such provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)


Harry M. Schueller
Division Chief

Dated: **MAY 24 2000**

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATIONS 18085 and 18087

PERMITS 13856 and 13858

LICENSE _____

ORDER ALLOWING NEW POINT OF DIVERSION
AND REDIVERSION, AND ADDITION OF PERMIT TERMS

WHEREAS:

1. A petition to add a point of diversion and rediversion (located at Folsom Dam) has been filed with the State Water Resources Control Board and said Board has determined that good cause for such changes has been shown.
2. The Board has determined that this addition of point of diversion and rediversion will not operate to the injury of any other user of water involved.

NOW, THEREFORE, IT IS ORDERED:

1. That permission is hereby granted under said Permits 13856 and 13858, to add a point of diversion and rediversion described as follows:

(FOLSOM DAM) SOUTH 38°18' WEST 2,715 FEET
FROM NE CORNER OF SECTION 24, T10N, R7E,
MDB&M BEING WITHIN SW $\frac{1}{4}$ OF NE $\frac{1}{4}$ OF SAID
SECTION 24.

IT IS FURTHER ORDERED that:

1. The following condition be added to Permits 13856 and 13858:

THE QUANTITY OF WATER DIVERTED UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD IF, AFTER NOTICE OF THE PERMITTEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

(0000013)

2. Paragraph 8 of both permits be amended to read as follows:

PURSUANT TO CALIFORNIA WATER CODE SECTION 100, ALL RIGHTS AND PRIVILEGES UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO, INCLUDING METHOD OF DIVERSION, METHOD OF USE, AND QUANTITY OF WATER DIVERTED, ARE SUBJECT TO THE CONTINUING AUTHORITY OF THE STATE WATER RESOURCES CONTROL BOARD IN ACCORDANCE WITH LAW AND IN THE INTEREST OF THE PUBLIC WELFARE TO PREVENT WASTE, UNREASONABLE USE, UNREASONABLE METHOD OF USE, OR UNREASONABLE METHOD OF DIVERSION OF SAID WATER.

THIS CONTINUING AUTHORITY OF THE BOARD MAY BE EXERCISED BY IMPOSING SPECIFIC REQUIREMENTS OVER AND ABOVE THOSE CONTAINED IN THIS PERMIT WITH A VIEW TO MINIMIZE WASTE OF WATER AND TO MEETING THE REASONABLE WATER REQUIREMENTS OF PERMITTEE WITHOUT UNREASONABLE DRAFT ON THE SOURCE. PERMITTEE MAY BE REQUIRED TO IMPLEMENT SUCH PROGRAMS AS (1) REUSING OR RECLAIMING THE WATER ALLOCATED; (2) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (3) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (4) CONTROLLING PHREATOPHYTIC GROWTH; AND (5) INSTALLING, MAINTAINING, AND OPERATING EFFICIENT WATER MEASURING DEVICES TO ASSURE COMPLIANCE WITH THE QUANTITY LIMITATIONS OF THIS PERMIT AND TO DETERMINE ACCURATELY WATER USE AS AGAINST REASONABLE WATER REQUIREMENTS FOR THE AUTHORIZED PROJECT. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD DETERMINES, AFTER NOTICE TO AFFECTED PARTIES AND OPPORTUNITY FOR HEARING, THAT SUCH SPECIFIC REQUIREMENTS ARE PHYSICALLY AND FINANCIALLY FEASIBLE AND ARE APPROPRIATE TO THE PARTICULAR SITUATION. (0000012)

3. That the following condition be added to Permits 13856 and 13858:

DIRECT DIVERSION OF WATER UNDER PERMITS 13856 and 13858 FROM A POINT OF DIVERSION AT FOLSOM DAM SHALL BE LIMITED TO THE SUPPLY AVAILABLE TO THE PERMITTEE AT POINT OF DIVERSION #7, AUBURN. (0000005)

4. That the following condition be added to Permits 13856 and 13858:

PROOF OF PERMITTEE'S ABILITY TO DELIVER WATER TO THE SAN JUAN SUBURBAN WATER DISTRICT THROUGH AN AGREEMENT TO BE ENTERED INTO WITH THE UNITED STATES BUREAU OF RECLAMATION (USBR) TO WHEEL SAID WATER THROUGH THE USBR FACILITIES AT FOLSOM RESERVOIR AND DAM SHALL BE SUBMITTED TO THE BOARD BY DECEMBER 31, 1976. (0000300)

Dated: JUN 25 1975


R. L. Rosenberger, Chief
Division of Water Rights

[For full information concerning the filling out of this form refer to Article 4 of Rules and Regulations Pertaining to Appropriation of Water]

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

Application No. 18085 Filed April 7, 1958, at 4:57 M.
(Applicant must not fill in the above blanks)

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

I, Placer County Water Agency
Name of applicant or applicants
of Auburn County of Placer
Address
State of California, do hereby make application for a permit to appropriate the following described unappropriated waters of the State of California, *SUBJECT TO VESTED RIGHTS*:

Source, Amount, Use and Location of Diversion Works

1. The source of the proposed appropriation is See supplement
Placer and
Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed
located in El Dorado County, tributary to See supplement

2. The amount of water which applicant desires to appropriate under this application is as follows:

(a) For diversion to be directly applied to beneficial use 1225 cubic feet per
1 cubic foot per second equals 40 statute miner's inches or 646,317 gallons per day
second, to be diverted from November 1 to July 1 of each year.
Beginning date Closing date

(b) For diversion to be stored and later applied to beneficial use See supplement acre-feet
1 acre-foot equals 325,851 gallons
per annum, to be collected between November 1 and July 1 of each season.
Beginning date Closing date

NOTE.—Answer (a) or (b) or both (a) and (b) as may be necessary. If amount under (a) is less than .025 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed. If underground storage is proposed a special supplemental form will be supplied by the State Water Rights Board upon request.

3. The use to which the water is to be applied is irrigation and incidental domestic, recreational,
Domestic, irrigation, power, municipal, mining, industrial, recreational
Municipal and Industrial purposes.

4. The point of diversion is to be located See supplement for points of diversion to storage
and points of redirection of stored water. Point of direct diversion to use is at
Auburn Pumping Plant 444, 400'N 2,267, 400'E, California Grid Coordinates.
State bearing and distance or coordinate distances from section or quarter section corner

being within the NW¹/₄ of NW¹/₄
State 40-acre subdivision of public land survey or projection thereof
of Section 23, T. 12N, R. 8E, M. D. B. & M., in the County of Placer

5. The main conduit terminates in SE¹/₄ of NW¹/₄ of Sec. 18, T. 12N, R. 8E, M. D. B. & M.
State 40-acre subdivision of U. S. Government survey or projection thereof

Description of Diversion Works

NOTE.—An application cannot be approved for an amount grossly in excess of the estimated capacity of the diversion works.

6. Intake or Headworks (fill only those blanks which apply)

(a) Diversion will be made by pumping from North Fork American River
Sump, offset well, unobstructed channel, etc.

(b) Diversion will be by gravity, the diverting dam being See supplement feet in height (stream bed to level of overflow); _____ feet long on top; and constructed of _____
Concrete, earth, brush, etc.

(c) The storage dam will be See supplement feet in height (stream bed to spillway level); _____ feet long on top; have a freeboard of _____ feet, and be constructed of _____
Concrete, earth, etc.

7. Storage Reservoir See supplement
Name

The storage reservoir will flood lands in _____
Indicate section or sections, also 40-acre subdivisions unless shown upon map

It will have a surface area of _____ acres, and a capacity of _____ acre-feet. If reservoir has a capacity of 25 acre-feet or more fill in the following: Diameter of outlet pipe _____ inches; length _____ feet; difference in elevation from spillway level to highest point of outlet pipe _____ feet; fall in pipe _____ feet.

In case of insufficient space for answers in form, attach extra sheets at top of page 3 and cross reference.

8. Conduit System (describe main conduits only)

(a) Canal, ditch, flume: Width on top (at water line) See supplement feet; width at bottom _____ feet; depth of water _____ feet; length _____ feet; grade _____ feet per 1,000 feet; materials of construction _____
Cross out two not used
Earth, rock, timber, etc.

(b) Pipe line: Diameter _____ inches; length _____ feet; grade _____ feet per 1,000 feet; total ^{fall}/_{lift} from intake to outlet _____ feet; kind _____
Riveted steel, concrete, wood-stave, etc.

NOTE.—If a combination of different sizes or kinds of conduit is to be used, attach extra sheets with complete description, also show location of each clearly on map.

9. The estimated capacity of the diversion conduit or pumping plant proposed is _____
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is \$ 107,376,000.
Give only cost of intake, or headworks, pumps, storage reservoirs and main conduits described herein

Completion Schedule

10. Construction work will begin on or before July 1, 1965

Construction work will be completed on or before July 1, 1975

The water will be completely applied to the proposed use on or before July 1, 2007

Description of Proposed Use

11. Place of Use. Western Placer County - Valley and Foothill units, State DWR Bul. 10

State 40-acre subdivisions of the public land survey. If area is unsurveyed indicate the location as if lines of the public land

Total Area 250,610 Acres, Irrigable Area 159,600 acres

survey were projected. In the case of irrigation use state the number of acres to be irrigated in each 40-acre tract, if space permits. If space does not permit listing of all

40-acre tracts, describe area in a general way and show detail upon map.

Do(es) applicant(s) own the land whereon use of water will be made? _____ Jointly? _____
Yes or No Yes or No

All joint owners should include their names as applicants and sign application at bottom of third page.
Applicant is a public agency and will make contract or delivery of water under PCWA act.

If applicant does not own land whereon use of water will be made, give name and address of owner and state what arrangements have been made with him.

12. Other Rights. Describe all rights except those on file with the State Water Rights Board under which water is served to the above named lands.

Nature of Right <small>(riparian, appropriative, purchased water, etc.)</small>	Year of First Use	Use made in recent years including amount if known	Season of Use	Source of Other Supply
1.				
2.				
3.				
4.				

Attach supplement at top of page 3 if necessary.

13. Irrigation Use. The area to be irrigated is See supplement acres.
State net acreage to be irrigated

The segregation of acreage as to crops is as follows: Rice _____ acres; alfalfa _____ acres;

orchard _____ acres; general crops _____ acres; pasture _____ acres.

NOTE.—Care should be taken that the various statements as to acreage are consistent with each other, with the statement in Paragraph 11, and with the map.

The irrigation season will begin about _____ and end about _____
Beginning date Closing date

14. Power Use. The total fall to be utilized is _____ feet.
Difference between nozzle or draft tube water level and first free water surface above

The maximum amount of water to be used through the penstock is _____ cubic feet per second.

The maximum theoretical horsepower capable of being generated by the works is _____ horsepower.
Second feet × fall ÷ 5.5

The use to which the power is to be applied is _____
For distribution and sale or private use, etc.

The nature of the works by means of which power is to be developed is _____
Turbines, Pelton wheel, etc.

The size of the nozzle to be used is _____ inches.

The water ^{will}/_{will not} be returned to _____ in _____ of _____
Name stream State 40-acre subdivision

Sec _____, T _____, R _____, B. & M. _____

1. The amount of water appropriated shall be limited to the amount that can be beneficially used and shall not exceed (a) 1,225 cfs by direct diversion from about November 1 of each year to about July 1 of the succeeding year from North Fork American River, (b) 25,000 af by off-stream storage, at a maximum rate of diversion of 400 cfs, from about November 1 of each year to about July 1 of the succeeding year from Duncan Creek to French Meadows Reservoir, (c) 95,000 af by storage from about November 1 of each year to about July 1 of the succeeding year from Middle Fork American River at French Meadows Reservoir, (d) 129,000 af by storage from about November 1 of each year to about July 1 of the succeeding year from Rubicon River at Hell Hole Reservoir. (0000005)

2. The maximum amount of water to be diverted to storage under this permit and permits issued pursuant to Applications 18084, 18086 and 18087 during any one season shall not exceed (a) 133,700 acre-feet at French Meadows Reservoir and (b) 208,400 acre-feet at Hell Hole Reservoir. (0000114)

3. The maximum amount herein stated may be reduced in the license if investigation warrants. (0000006)

4. Actual construction work shall begin on or before September 1, 1963, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

5. Construction work shall be completed on or before December 1, 1967. (0000008)

6. Complete application of the water to the proposed use shall be made on or before December 1, 2007. (0000009)

7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued. (0000010)

8. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water. (0000012)

9. This permit is subject to the prior rights of any county in which the water sought to be appropriated originates to the use of such water as may be necessary for the development of such county as provided for in Section 10505 of the Water Code (0000999)

10. To the extent that their provisions relate to matters within the jurisdiction of the State Water Rights Board, this permit is subject to stipulations and agreements between the permittee and the California Department of Fish and Game, dated July 20, 1962, San Juan Suburban Water District, et al., dated May 21, 1962, Sacramento Municipal Utility District, dated May 21, 1962, and the City of Sacramento, dated May 21, 1962, which were filed for record at the hearing on Applications 18084, 18085, 18086, and 18087 as Placer County Water Agency's Exhibits 19, 20, 21, and 22, respectively. (0430999)

11. This permit does not authorize collection of water to storage during the period outside of the collection seasons specified in Paragraph 1, to offset evaporation or seepage losses or for any other purpose. (0000005)

12. Permittee shall allow representatives of the State Water Rights Board and other parties as may be authorized from time to time by said Board reasonable access to project works to determine compliance with the terms of this permit. (0000011)

138000

IMPORTANT

[Please Read Carefully]

1. Note the terms and conditions of this permit. Construction work must be prosecuted, and the water applied to the beneficial uses intended with due diligence. Annual reports of progress will be expected from you upon forms which will be furnished for the purpose. When the water has been fully applied to the beneficial uses intended the Water Code requires that you notify the State Water Rights Board thereof.
2. Neither this application nor the permit is a water right, but if the terms and conditions of the permit are observed a water right can be obtained through beneficial use of the water—the extent of the right to be determined by a field inspection which will be made by a representative of the State Water Rights Board.
3. No change in point of diversion, or place of use or character of use, can be made under this application and permit without the approval of the State Water Rights Board.
4. If the rights under this permit are assigned immediate notice to that effect with the name and address of the new owner should be forwarded to the State Water Rights Board, Sacramento, California.
5. Please advise immediately of any change of address. Until otherwise advised communications will be sent to the address used in the letter transmitting this permit.

PERMIT No. 13856

This is to certify that the application of which the foregoing is a true and correct copy has been considered and approved by the State Water Rights Board SUBJECT TO VESTED RIGHTS and the following limitations and conditions:

13. In accordance with requirements of Water Code Section 1393, permittee shall clear the site of each of the proposed reservoirs of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

14. This permit is subject to compliance by permittee with Section 10504.5(a) of the Water Code. (0330999)

15. Separate applications for the approval of plans and specifications for construction of the dams described in this approved water right application shall be filed with and approved by the Department of Water Resources prior to commencement of construction of the dams. (0360048)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JAN 10 1963

STATE WATER RIGHTS BOARD



L. K. Hill
L. K. Hill
Executive Officer

13856

DO NOT WRITE IN THIS SPACE
ATTACH EXTRA SHEETS HERE

15. **Municipal Use.** This application is made for the purpose of serving Roseville, Rocklin, Loomis
New Castle, Auburn, Lincoln, Penryn, Name city or cities, town or towns. Urban areas only
Sunset City and Capital City having a present population of _____

The estimated average daily consumption during the month of maximum use at the end of each five-year period until the full amount applied for is put to beneficial use is as follows: **Acre-feet per day**

1970 - 133	1985 - 240	2000 - 420
1975 - 167	1990 - 294	2005 - 487
1980 - 200	1995 - 354	2010 - 560
		2015 - 667

16. **Mining Use.** The name of the mining property to be served is None
Name of claim
_____ and the nature of the mines is _____
Gold placer, quartz, etc.

The method of utilizing the water is _____

It is estimated that the ultimate water requirement for this project will be _____
Cubic feet per second, gallons per minute. State basis of estimate

The water ^{will} be polluted by chemicals or otherwise _____
_{will not} Explain nature of pollution, if any

and it ^{will} be returned to _____ in _____ of
_{will not} Name stream State 40-acre subdivision

Sec. _____, T. _____, R. _____, _____ B. & M.

17. **Other Uses.** The nature of the use proposed is recreational and industrial
Industrial, recreational, domestic, stockwatering, fish culture, etc.

State basis of determination of amount needed. Recreation on and in the vicinity of the proposed
Number of persons, residences, area of domestic lawns and gardens, number and kind of stock, type
reservoirs is contemplated. Placer County and land developers in the county are
industrial use, and unit requirements
entering upon a campaign to bring industry into Western Placer County. Water is a
necessary ingredient. Industrial development has not progressed to the extent that
predictions can be made.

General

18. Are the maps as required by the Rules and Regulations filed with Application? Yes If not,
Yes or No
state specifically the time required for filing same _____

19. Does the applicant own the land at the proposed point of diversion? No If not, give name and
Yes or No
address of owner and state what steps have been taken to secure right of access thereto _____

20. What is the name of the post office most used by those living near the proposed point of diversion?
Auburn, California

21. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion?
U. S. Bureau of Reclamation
City of Sacramento
Others not known

Placer County Water Agency

[SIGNATURE OF APPLICANT] /s/ Dr. Ek Anderson - Chairman Board of Directors

Supplement to Application 18085

Paragraph 1 - Sources of Appropriation

- (1) Duncan Creek
 - (2) Middle Fork American River
 - (3) Rubicon River
 - (5) Middle Fork American River
 - (6) Middle Fork American River
 - (7) North Fork American River
-

(4a) is tributary to (3)

(4b) is tributary to (4a)

(1) and (3) are tributary to (2) or (5)

(5) and/or (6) are tributary to the North Fork American River thence the American River.

Supplement to Application 18085

Paragraph 2 (a) and (b) - Amount of Water

<u>STREAM</u>	<u>STRUCTURE</u>	Direct Diversion Cubic feet per second	For Diversion to be stored and later applied to beneficial use - Acre-feet per annum	Name of Reservoir where water will be stored
1 Duncan Creek	Duncan Creek Diversion		25,000 ¹	French Meadows
2 M.F. American R.	French Meadows Dam and Reservoir		95,000	French Meadows
3 Rubicon River	Hell Hole Dam and Reservoir		129,000 ²	Hell Hole
7 N.F. American R.	Auburn Division	1225		

1. Maximum rate of diversion to storage in French Meadows Reservoir-
400 cubic feet per second from Duncan Creek.

2. Includes 4,000 acre-feet of water formerly in Parsley Bar Reservoir which has been
eliminated from Project.

Supplement to Application 18085

Paragraph 4 - Points of Diversion

Ref. No.	L O C A T I O N									
			California Grid Coordinates, Zone II		Mount Diablo B & M Quarters Sec T-N R-E					
			N	E			Quarters	Sec	T-N	R-E
<u>Par. 4 - Points of Diversion</u>										
1	Duncan Creek	Duncan Creek	538,130	2,431,040	NW	SW	24	15	13	
2	M.F. American R.	French Meadows	530,100	2,434,250	NW	NE	36	15	13	
3	Rubicon River	Hell Hole	510,750	2,452,000	SW	SSE	16	14	14	
5	M.F. American R.	Ralston Interbay	498,137	2,397,300	NW	NE	35	14	12	
6	M.F. American R.	Ralston Afterbay	490,160	2,357,100	NW	NW	3	13	11	
7	N.F. American R.	Auburn	444,400	2,267,400	NE	SW	23	12	8	
<u>Par. 4 - Points of Rediversion</u>										
2	M.F. American R.	French Meadows	530,100	2,434,250	NW	NE	36	15	13	
3	Rubicon River	Hell Hole	510,750	2,452,000	SW	SE	16	14	14	
5	M.F. American R.	Ralston Interbay	498,137	2,397,300	NW	NE	35	14	12	
6	M.F. American R.	Ralston Afterbay	490,160	2,357,100	NW	NW	3	13	11	
7	N.F. American R.	Auburn	444,400	2,267,400	NE	SW	23	12	8	

Supplement to Application 18085

Paragraph 6 - Intake or Headworks

Ref. No.	Stream	Name of Dam	Dimensions (feet)			Material
			Height	Length	Freeboard	
<u>Par - 6(b) - Diversion Dams</u>						
1.	Duncan Creek	Duncan Cr. Diversion	32	188	10	Concrete
5.	M.F. American R.	Ralston Interbay	75	212	10	Concrete
6.	M. F. American R.	Ralston Afterbay	90	500	5	Gravel Fill
7.	N. F. American R.	Auburn Diversion	25	400	None	Concrete
<u>Par - 6(c) - Storage Dams</u>						
2.	M. F. American R.	French Meadows*	228	2700	5	Composite
3.	Rubicon River	Hell Hole	410	1570	20	Rockfill

* Also serves as Diverting Dam

Supplement to Application 18085

Paragraph 7 - Storage Reservoirs

Ref. No.	Stream	Reservoir	Flood Lands In	Surface Area Acres	Capacity Acre-feet
	M.F. American River	French Meadows	See Map	1418	133,700
	Rubicon River	Hell Hole	See Map	1245	208,400

Supplement to Application 18085

Paragraphs 8 (a) and 9 - Conduit System and Capacities

FROM	TO	Distance Miles	Section	Size (feet)	Type	Slope (Invert Gradient)	Capacity c.f.s.
Duncan Creek Diversion	French Meadows Res. M.F. American River	1.49	Tunnel Horseshoe (unlined)	9 X 10	Flowline	0.0018	400
French Meadows Res. M.F. American River	French Meadows P.P. Rubicon River	2.78	Tunnel Horseshoe (unlined)	12.5X12.5	Pressure	0.0040	400
Hell Hole Rubicon River	Long Canyon Diversion S.F. Long Canyon	3.29	Tunnel Horseshoe (unlined)	13.25X 13.25	Pressure	0.0045	830
Ralston Interbay M. F. American River	Ralston Powerplant Rubicon River	5.14 1.56	Tunnel Horseshoe	13.25X 13.25 10.58X 11.42	Pressure Pressure	0.0060 0.0060	830 830
Ralston Afterbay M.F. American River	Oxbow Regulator M.F. American R.	0.25	Tunnel Horseshoe	16.0 X 16.0	Pressure		1930
Auburn Diversion N.F. American River	Auburn Ravine	3.14	Tunnel Horseshoe	8 X 8	Pressure	0.0006	400*

* First Increment of diversion works for Western Placer County

Supplement to Application 18085

Paragraph 13 - Irrigation Use

Description and Crop	Areas in Acres		Total
	Valley	Foothill	
Total Area	109,470	141,140	250,610
Irrigable Area	94,000	65,600	159,600
Probable Ultimate Pattern of land use -			
Pasture & Hay	42,000	32,600	74,600
Rice	28,000	--	28,000
Orchard & Vineyard	5,000	23,000	28,000
General Crops incl. Truck	5,000	10,000	15,000)
Sorghums	9,000	--	9,000)
Corn	5,000	--	5,000)
			29,000