

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

**PETITION FOR TEMPORARY TRANSFER
OF WATER/WATER RIGHTS**
(Water Code 1725)

Point of Diversion Point of Rediversion Place of Use Purpose of Use

Application No(s). 14443 Permit No. 16479 License No. _____

Statement or Other No. _____

Present Holder and User of Water Right

Department of Water Resources Nancy Quan, Program Dev. & Transfers 916-653-0190
Person or Company name Contact Person Telephone No.

P.O. Box 942836, 1416 9th Street Sacramento CA 94236-0001
Address City State Zip Code

nquan@water.ca.gov

E-MAIL (For noticing purposes)

Proposed New User

Byron Bethany Irrigation District Rick Gilmore 209-835-0375
Person or Company name Contact Person Telephone No.

7995 Bruns Road Byron CA 94514
Address City State Zip Code

r.gilmore@bbid.org

E-MAIL (For noticing purposes)

I (We) hereby petition the State Water Resources Control Board (State Water Board) under the provisions of Water Code (WC) section 1725 et seq. and in conformance with the specific requirements of California Code of Regulations (CCR) section 794 for temporary change(s) to the water right application(s) noted above for the purpose of transferring water. The changes are shown on the accompanying map and described as follows (attach additional pages, as needed):

Amount of Water to be Transferred up to 800 Acre-feet (AF). If the basis of right is direct diversion, the average rate of diversion for the maximum 30 day period of use is 2 cubic feet per second (cfs).

Period of Transfer/Exchange (Not to exceed one year) January 1, 2011 through December 31, 2011

Point of Diversion or Rediversion (Give coordinate distances from section corner or other ties as allowed by CCR section 715, and the 40-acre subdivision in which the present & proposed points lie.

Present Banks Pumping Plant
Proposed No Change

Place of Use

Present SWP authorized place of use
Proposed CVP Place of Use within San Joaquin County as shown on the attached map

Purpose of Use

Present Municipal, Domestic, Irrigation
Proposed No Change

	Season of Use	Direct Use (cfs)	Storage (ac-ft)
Present	<u>April 15, 2011 – April 14, 2012</u>	<u>2 cfs</u>	<u>Up to 800 acre-feet</u>
Proposed	<u>April 15, 2011 – April 14, 2012</u>	<u>2 cfs</u>	<u>Up to 800 acre-feet</u>

The proposed transfer/exchange water is presently used or stored within the county/counties of: within the authorized place of use of the State Water Project (SWP) south of Banks Pumping Plant including Alameda, Santa Clara, Stanislaus, Kings, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, San Bernardino, and Riverside

The proposed transfer/exchange water will be placed to beneficial use within the following county/counties:
San Joaquin

- 1a. Would the transfer/exchange water have been consumptively used or stored in the absence of the proposed temporary change (See WC 1725)? Yes
(yes/no)
- 1b. Provide an analysis which provides documentation that the amount of water to be transferred/exchanged would have been consumptively used or stored in the absence of the proposed temporary change.

Byron Bethany Irrigation District (BBID) is an existing Central Valley Project (CVP) long-term water supply contractor. Musco Olive Products Company (Musco) contracts with BBID for a water supply. Musco is located west of the City of Tracy adjacent to the California Aqueduct. It is within the CVP place of use, but does not currently have direct access to the CVP conveyance facilities. Water Rights Decision 1641 (D1641) allows the Bureau of Reclamation (Reclamation) to pump water at the State Water Project (SWP) Banks Pumping Plant (Banks) under Joint Point Operations (JPOD) stage 1 approval for delivery to Musco. There are times however, when JPOD capacity is not available and Musco has a demand for CVP water. Under the proposed exchange, DWR would provide SWP water pumped at Banks directly to Musco in exchange for an equivalent amount of CVP water pumped at the CVP Jones Pumping Plant (Jones) and delivered to the SWP at O'Neill Forebay. The total quantity of water exchanged is small, up to 800 af. The exchange water delivered to O'Neill will be used within the existing CVP place of use.

The exchange will not increase the total amount of water pumped from the Delta or delivered to SWP and CVP contractors. Each year the SWP and CVP pump the available supply from the Delta within the limits imposed on them by the various regulatory restrictions governing Project operations to meet contractor requests. In all but the wettest years, the available supply is insufficient to meet contractor demands. The Project's ability to pump is limited by three factors, the capacity of their facilities, the availability of water and the regulatory restrictions governing Project operations. The severe restrictions limit the amount of time JPOD pumping is available.

Project operations are constrained due to the regulatory restrictions imposed by D1641 and the biological opinions (BOs) for the protection of Delta smelt and anadromous fishes and marine mammal species. The current restrictions contained in the BOs severely limit pumping at Banks and Jones from December through June, typically the period when substantial excess flow is available in the Delta channels for diversion by the Projects. Due

to the limits on Project operations, both the SWP and CVP are typically unable to pump sufficient water to meet contractor demands. If CVP water cannot be delivered to Musco by exchange during periods when JPOD capacity is not available, the forgone deliveries will be delivered and used elsewhere within BBID's service area.

2a. If the point of diversion/diversion is being changed, are there any person(s) taking water from the stream between the present point of diversion/diversion and the proposed point?

N/A
(yes/no)

2b. Are there any persons taking water from the stream between the present point of diversion or return flow and the proposed point of diversion or return flow? No

(yes/no)

2c. If the answer to 2a. or 2b. is yes, provide the name and address. Also provide the name and address of other persons known to you who may be affected by the proposed change.

3a. Provide an analysis of any changes in streamflow, water quality, timing of diversion or use, return flows, or effects on legal users resulting from the proposed transfer/exchange.

The exchange will not increase the total amount of water pumped from the Delta or delivered to SWP and CVP contractors. Each year the SWP and CVP pump the available supply from the Delta within the limits imposed on them by the various regulatory restrictions governing Project operations to meet contractor requests. In all but the wettest years, the available supply is still insufficient to meet contractor demands. The Project's ability to pump is limited by three factors, the capacity of their facilities, the availability of water and the regulatory restrictions governing Project operations. Within the current regulatory framework, insufficient unrestricted windows exist for Project pumping to exceed demand and available storage south of the Delta.

Project operations are constrained due to the regulatory restrictions imposed by D1641 and the biological opinions (BOs) for the protection of Delta smelt and anadromous fishes and marine mammal species. The current restrictions contained in the BOs severely limit pumping at Banks Jones from December through June, typically the period when substantial excess flow is available in the Delta channels for diversion by the Project. The remaining available pumping windows typically are not adequate to meet project demands south of the Delta. The maximum potential deliveries to Musco are small, up to 800 acre-feet per year. If CVP water cannot be delivered to Musco by exchange during periods when JPOD capacity is not available, the forgone deliveries will be delivered and used elsewhere within BBID's service area.

3b. State reasons you believe the proposed temporary change will not injure any legal user of the water, see Water Code Section 1727 (b)(1). _____

No additional water will be diverted from the Sacramento-San Joaquin Delta to affect the proposed exchange. Therefore there will be no change in streamflow or hydrologic regime, or effect on any other legal user of water. The scheduling of the deliveries will be coordinated between DWR and Reclamation so as not to adversely impact SWP or CVP operations including deliveries. Adequate capacity in the California Aqueduct is available, and will not be adversely impacted as a result of this transfer. All water pumped at Banks Jones is pumped in conformance with DWR's water rights permits, the biological opinions governing SWP and CVP operations and all other regulatory requirements currently affecting DWR operations.

4. Consult with staff of the applicable Regional Water Quality Control Board concerning the proposed temporary change. State the name and phone number of person(s) contacted. Summarize their opinion concerning compliance with CCR 794(b) and any Regional Board requirements. Ann Palmer (916) 464-4825; apalmer@waterboards.ca.gov
- 5a. Consult with the California Department of Fish and Game pursuant to CCR 794(b) concerning the proposed temporary change. State the name and phone number of the person(s) contacted and their opinion concerning the potential effect(s) of the proposed temporary change on fish, wildlife, or other instream beneficial uses, and state any measures recommended for mitigation. Corrine Gray (707) 944-5526; cgray@dfg.ca.gov
- 5b. Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See WC 1707) ? No
(yes/no)
- 5c. Provide an analysis of potential effect(s) on fish, wildlife, or other instream beneficial uses which may arise from the proposed change. _____

The exchange will not affect fish, wildlife or other instream beneficial uses. The transfer will not result in an increase in total diversions from the Sacramento-San Joaquin Delta, a change in the timing or pattern of SWP diversions or an increase in return flows to the San Joaquin River. The water delivered to Musco Olive by DWR will be repaid by delivery of an equivalent amount of CVP water delivered to DWR by Reclamation in O'Neill Forebay. All water exported at Banks is pumped in accordance with the terms of DWR's permits, the biological opinions governing SWP and CVP operations and all other regulatory requirements currently affecting DWR operations..

- 5d. State reasons you believe the proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses, see Water Code Section 1727 (b)(2). _____

The exchange will not affect fish, wildlife or other instream beneficial uses. The transfer will not result in an increase in total diversions from the Sacramento-San Joaquin Delta, a change in the timing or pattern of SWP diversions or an increase in return flows to the San Joaquin River. The total amount of water delivered is small, and the proposed exchange is an equal exchange of SWP water delivered to Musco for CVP water delivered to O'Neill Forebay. The exchange is merely facilitating the delivery of CVP contract water to an existing CVP contractor at times when JPOD capacity is not available at Banks. All water exported at Banks is pumped in accordance with the terms of DWR's permits, the biological opinions governing SWP and CVP operations and all other regulatory requirements currently affecting DWR operations.

- 6a. Does any agency involved in the proposed transfer/exchange rely upon section 382 of the Water Code to allow the delivery of water outside of the agency's service area?

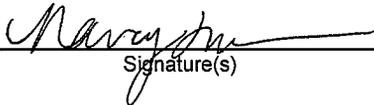
No
(yes/no)?

- 6b. If yes, provide an analysis of the effect of the proposed transfer/ exchange on the overall economy of the area from which the water is being transferred. _____

A TRANSFER/EXCHANGE UNDER WATER CODE SECTION 1725 INVOLVES ONLY THE AMOUNT OF WATER WHICH WOULD HAVE BEEN CONSUMPTIVELY USED OR STORED IN THE ABSENCE OF THE PROPOSED TEMPORARY CHANGE. A CHANGE WILL BE EFFECTIVE FOR A PERIOD OF ONE YEAR OR LESS, BEGINNING ON THE APPROVAL OF THIS PETITION OR ON SUCH DATE OTHERWISE SPECIFIED BY THE STATE WATER BOARD ORDER. FOLLOWING EXPIRATION OF THIS TEMPORARY CHANGE, ALL RIGHTS AUTOMATICALLY REVERT TO THE PRESENT HOLDER BY OPERATION OF LAW.

I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated: March 2, 2011 at Sacramento, California

 (916) 653-0190
Signature(s) Telephone No.

NOTE: This petition shall be accompanied by all information required by this form and W.C. Section 1725 et. seq, and the fees before the State Water Board will consider acceptance of the petition requesting a temporary change to facilitate a transfer/exchange.

Proof of Service: Compliance with W.C. section 1726(c) shall be met by the filing of copies of the proof of service to the Department of Fish and Game and to the board of supervisors of the counties where the water is currently used and the counties to which water is proposed to be transferred.

NOTE: All petitions must be accompanied by the **filing fee, (see fee schedule at www.waterrights.ca.gov)**, made payable to the State Water Resources Control Board and an **\$850 fee** made payable to the Department of Fish and Game must accompany this petition. Separate petitions are required for each water right.

Supplement to Petition for Temporary Transfer

The Department of Water Resources (DWR) requests that the State Water Resources Control Board (SWRCB) modify the listed DWR permit to temporarily change the place of use to include the Musco Olive Products Company (Musco) as shown on the attached map to allow for the delivery of Central Valley Project (CVP) water to Musco by exchange during periods when insufficient capacity exists at the State Water Project (SWP) Harvey O. Banks Pumping Plant (Banks) for Joint Point Operations (JPOD) as currently authorized under Water Rights Decision 1641 (D 1641).

Byron Bethany Irrigation District (BBID) receives CVP water under the terms of its long-term water service contract with the Bureau of Reclamation (Reclamation). A portion of the CVP Project Water allocated to BBID is currently conveyed to Musco by agreement between DWR, Reclamation and BBID. Musco is located west of the City of Tracy adjacent to the California Aqueduct. It is within the CVP place of use, but does not currently have direct access to the CVP conveyance facilities. Water is currently supplied to Musco through the California Aqueduct at times when conveyance capacity is available in excess of the capacity determined by DWR to be necessary for SWP operation, including deliveries. Under the terms of Water Rights Decision 1641, Reclamation can pump CVP water at Banks Pumping Plant consistent with the terms governing Joint Point Operations (JPOD) Stage 1 approval. Depending on hydrologic conditions, SWP demands and current regulatory restrictions, there are times when Musco has a demand for water however, no capacity exists for JPOD operations. During these periods Musco has a critical need for an alternate means of water delivery. To avoid a shut down in operations at Musco, SWP water would be provided at Musco's existing turnout on the California Aqueduct by DWR. Reclamation would provide an equivalent amount of CVP water to DWR by exchange in O'Neill Forebay. The CVP exchange water delivered to DWR will be used within the existing CVP place of use including joint service areas within Santa Clara and Kings Counties.

Due to the current restrictions on Delta pumping, the periods when JPOD capacity is available are limited. Musco critically needs an alternate water supply until the Intertie between the California Aqueduct and the Delta Mendota Canal can be completed. The intertie, currently under construction, is located upstream of Musco and will allow Reclamation to provide water from Jones directly to Musco. The Intertie is projected to be operational in 2012. If the Intertie is not complete by the beginning of 2012, another temporary change may be necessary if JPOD capacity remains constrained.