

# Memorandum

Date: SEP 25 2008

To: Ms. Victoria Whitney, Chief  
Division of Water Rights  
State Water Resources Control Board  
Post Office Box 2000  
Sacramento, California 95814-2000

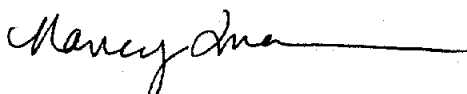
From: Department of Water Resources

Subject: Petition for Temporary Change to allow 2008 Transfer of up to 100 acre-feet from Kern County Water Agency Service Area to Bureau of Reclamation

Attached is the Petition for temporary change to allow the transfer of 100 acre-feet of State Water Project water from the Kern County Water Agency service area to the U.S. Department of the Interior's Bureau of Reclamation (Reclamation) service area south of O'Neill Forebay. The exchange will facilitate the return of water previously banked by the City of Tracy, a Reclamation contractor, in the Semitropic Water Storage District groundwater bank.

Also included are (1) a check for the \$2,027 fee to the State Water Resources Control Board, (2) a check for \$850 to the Department of Fish and Game, and (3) a map showing the areas of the proposed change.

If you have any questions or need additional information, please contact Maureen Sergent of my staff at (916) 653-9467.



Nancy Quan, Chief  
Program Development and Water Supply,  
And Transfers Branch  
State Water Project Analysis Office  
(916) 653-0190

Attachments

cc: (Attached list)

STATE WATER RESOURCES  
CONTROL BOARD  
2008 SEP 26 PM 2:01  
DIV OF WATER RIGHTS  
SACRAMENTO

Mr. Terry Erlewine  
General Manager  
State Water Contractors  
1121 L Street, Suite 1050  
Sacramento, California 95814

Mr. James E. Turner  
Office of the Solicitor  
U.S. Department of the Interior  
2800 Cottage Way, Room E-2753  
Sacramento, California 95825

Mr. Ray Salfberg  
Bureau of Reclamation  
U.S. Department of the Interior  
2800 Cottage Way  
Sacramento, California 95825

Mr. Anthony Toto  
Central Valley Regional Water  
Quality Control Board  
1685 E Street  
Fresno, California 93706-2007

Mr. Julie Means  
California Department of  
Fish and Game, Region 4  
1234 East Shaw  
Fresno, California 93710

Kings County Board of Supervisors  
1400 West Lacey Boulevard  
Hanford, California 93230

Mr. James M. Beck  
General Manager  
Kern County Water Agency  
Post Office Box 58  
Bakersfield, California 93302-0058

Mr. Steve Bayley  
Deputy Director of Public Works  
City of Tracy  
520 South Tracy Boulevard  
Tracy, California 95376

U.S. Fish and Wildlife Service  
Habitat Conservation  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825-1846

Fresno County Board of Supervisors  
2281 Tulare-Hall of Records, Room 301  
Fresno, California 93721-2198

Stanislaus County Board of Supervisors  
1010 10<sup>th</sup> Street  
Modesto, California 95354

TH/CFW

STATE WATER RESOURCES CONTROL BOARD

2008 SEP 26 PM 2: 01

DIV OF WATER RIGHTS SACRAMENTO

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). 17512 Permit No. 16482 License No. \_\_\_\_\_  
Statement or Other No. \_\_\_\_\_

**Present Water Right Holder**

California State Department of Water Resources  
Nancy Quan, Chief (916) 653-0190  
Program Development and Water Supply and Transfers Branch  
Post Office Box 942836  
Sacramento, California 94236-0001  
[nquan@water.ca.gov](mailto:nquan@water.ca.gov)

**Present User**

Kern County Water Agency  
James M. Beck, General Manager (661) 634-1400  
P.O. Box 58  
Bakersfield, California 93302-0058  
[jbeck@kcwa.com](mailto:jbeck@kcwa.com)

**Proposed New User(s)**

United States Bureau of Reclamation  
Richard Woodley, Chief, Division of Resources Management (916) 978-5201  
2800 Cottage Way  
Sacramento, CA 95825  
[rwoodley@mp.usbr.gov](mailto:rwoodley@mp.usbr.gov)

**Party to Exchange**

City of Tracy  
Steve Bayley, Deputy Director of Publics Works (559) 241-6241  
520 South Tracy Blvd.  
Tracy, CA, 95376  
[steveb@ci.tracy.ca.us](mailto:steveb@ci.tracy.ca.us)

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:

**Amount of Water to be Transferred** Up to 100 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 \_\_\_\_\_ cubic feet per second (cfs).

**Period of Transfer/Exchange** (Not to exceed one year) October 2008 through September 2009.

Handwritten notes and signatures in the bottom right corner, including a date "9/25/08" and initials.

**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 Diversion at Banks Pumping Plant within NW¼ of SE¼ of Projected Section 20, T1S, R3E, MDB&M.  
Proposed No Change

**Place of Use**

Present Kern County Water Agency (KCWA) service area as shown on the attached map.  
Proposed United States Bureau of Reclamation (Reclamation) Central Valley Project (CVP) service area south of O'Neill Forebay as shown on the maps on file with the SWRCB for delivery to lands in Fresno and/or Merced counties, as shown on the attached map to facilitate the delivery by exchange of CVP water previously stored in Semitropic Water Storage District (Semitropic) to the City of Tracy (Tracy).

**Purpose of Use**

Present Irrigation  
Proposed M&I

	<i>Season of Use</i>	<i>Direct Use (cfs)</i>	<i>Storage (ac-ft)</i>
Present	<u>October 2008 through September 2009</u>	<u></u>	<u>Up to 100 ac-ft</u>
Proposed	<u>October 2008 through September 2009</u>	<u></u>	<u>Up to 100 ac-ft</u>

The proposed transfer/exchange water is presently used or stored within the county/counties of:

Kern

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

Fresno and Merced

- 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.

Due to the extremely dry conditions in 2008 and regulatory restrictions on State Water Project (SWP) Delta pumping, SWP allocations are currently 35 percent of contract amounts. In the absence of the transfer KCWA would take delivery of its full allocation for use within its Service Area. The water to be transferred under this petition will be used to facilitate the return of 100 af of water previously banked by the City of Tracy in Semitropic in 2006. Semitropic will recover and deliver up to 100 af of Tracy's groundwater storage to KCWA. DWR will release a like amount of KCWA's SWP Table A water for delivery to O'Neill Forebay. The SWP Table A water will be delivered to Reclamation at O'Neill Forebay for use within the CVP service area south of O'Neill in Fresno and Merced counties. In exchange, Reclamation will provide 100 af of allocated 2008-09 CVP water to Tracy from the Delta Mendota Canal (DMC). In the absence of the exchange, the 100 af of banked local water would remain in Semitropic and KCWA's Table A water would be delivered to the KCWA service area under the provisions of KCWA's long-term SWP water supply contract and used within its service area. The 100 af of water pumped by Reclamation at Jones would be delivered through the DMC to O'Neill for use within its service area south of O'Neill.

CVP 2008 allocations to Tracy for the 2008 water year are 75 percent of contract amounts. There is unmet demand within Tracy's service area this season. The water covered by this petition will facilitate the delivery of up to 100 af of 2006 CVP water previously stored by Tracy in Semitropic at a time when supplemental water was available under the provisions of Tracy's CVP contract. The return of 100 af of previously banked water will be used to help alleviate current deficiencies. Because Tracy cannot receive direct deliveries from Semitropic, the water must be returned via an exchange.

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

There will be no additional SWP or CVP pumping from the Sacramento-San Joaquin River Delta (Delta) as a result of the transfer. The transfer will not result in an increase in the water available within the KCWA service area or the Reclamation service area south of O'Neill Forebay. Therefore, there will be no change in application rates or return flows within these areas. The transfer of 100 af of SWP water to Reclamation will facilitate the delivery of water previously stored by Tracy for use during dry years. Water previously stored in Semitropic will be pumped and delivered to KCWA for use within the KCWA service area in lieu of delivery of an equivalent amount of SWP water. If the local banked water were not made available to KCWA, the 100 af to be exchanged with Tracy would be pumped at Banks and delivered to KCWA for use within its service area. In the absence of the transfer, the 100 af of CVP water to be delivered to Tracy would be pumped at Jones by Reclamation and delivered to O'Neill for use within the CVP service area.

Tracy currently delivers approximately 18,500 af/yr within its service area and expects that demand will grow to 25,900 af/yr by the year 2020. In order to meet the current and future water supply requirements and alleviate dry year deficiencies, Tracy developed a diverse portfolio of water supplies which includes multiple contracts with the Reclamation for CVP water supplies, a contract with South San Joaquin Irrigation District to receive pre-1914 water supplies through the South County Water Supply Program, and local groundwater supplies. In the last few years Tracy began exploring the option of banking available supplies during surplus years in Semitropic to provide additional flexibility and augment its water supply in dry years. To date, Tracy has stored 1000 acre-feet of 2006 CVP supply in Semitropic. The proposed transfer will facilitate the return of 100 af of Tracy's groundwater storage from Semitropic.

- 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).

The quantity of water associated with this transfer was diverted at the Banks Pumping Plant and rediverted to storage in San Luis Reservoir in conformance with the criteria contained in State Water Resources Control Board Decision 1641 and the criteria mandated under the Biological Opinions for protection of Sacramento River winter-run Chinook salmon, delta smelt, spring-run Chinook salmon and steelhead and the interim remedies imposed by the recent Wanger Decision. The water involved with this transfer is diverted out of the watershed in which the water originated and, thus, there are no other legal users of the water downstream of the point of diversion. Therefore, no other legal user of water would be injured. In the absence of the transfer, the same quantity of water would be pumped at Banks and would be delivered to KCWA for use within its service area.

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.

Anthony Toto (559) 445-6278; FAX: (559) 445-5910.

- 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.

Julie Means (559) 243-4014 ext. 240; FAX (559) 243-4020

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) ?  N/A  .  
(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.

No effects on water quality, fish and wildlife or other instream beneficial uses will arise from the proposed change. There will be no additional SWP or CVP pumping from the Delta in order to facilitate the exchange. There will be no increase in deliveries in the SWP service area or CVP service area south of O'Neill Forebay as a result of the exchange. Consequently there will be no change in instream flow or return flows in these areas. In the absence of the exchange, the 100 af of banked local water would remain in Semitropic, and KCWA's Table A water would be delivered to the KCWA service area under the provisions of KCWA's long-term SWP water supply contract and the 100 af of CVP supply to be delivered to Tracy would be pumped by Reclamation and delivered to O'Neill for use within its service area. Any return flow resulting from the delivery of 100 af to the City of Tracy will not result in a measurable increase in return flow from Tracy. Deliveries to Tracy will remain below historic levels.

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).

There will be no increase in the quantity of SWP water diverted at Banks as a result of this exchange. Due to the dry hydrologic conditions and regulatory restrictions in the Delta, 2008 SWP allocations are limited to 35% of Table A amounts. If the local banked water were not made available to KCWA, the 100 af to be exchanged with Reclamation would be delivered to KCWA for use within its service area. The water diverted and re-diverted from the Sacramento-San Joaquin Delta is diverted in conformance with the criteria contained in State Water Resources Control Board Decision 1641 and all other regulatory requirements governing SWP operations. The delivery of water to Tracy under the provisions of the proposed exchange will not alter CVP operations at Jones. The 100 af of CVP supply to be delivered to Tracy would be pumped by Reclamation and delivered to O'Neill for use within its service area. Any return flow resulting from the delivery of 100 af to the City of Tracy will not result in a measurable increase in return flow from Tracy. Deliveries to Tracy will remain below historic levels.

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 SWRCB 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: Sept 25, 2008 at Sacramento, California

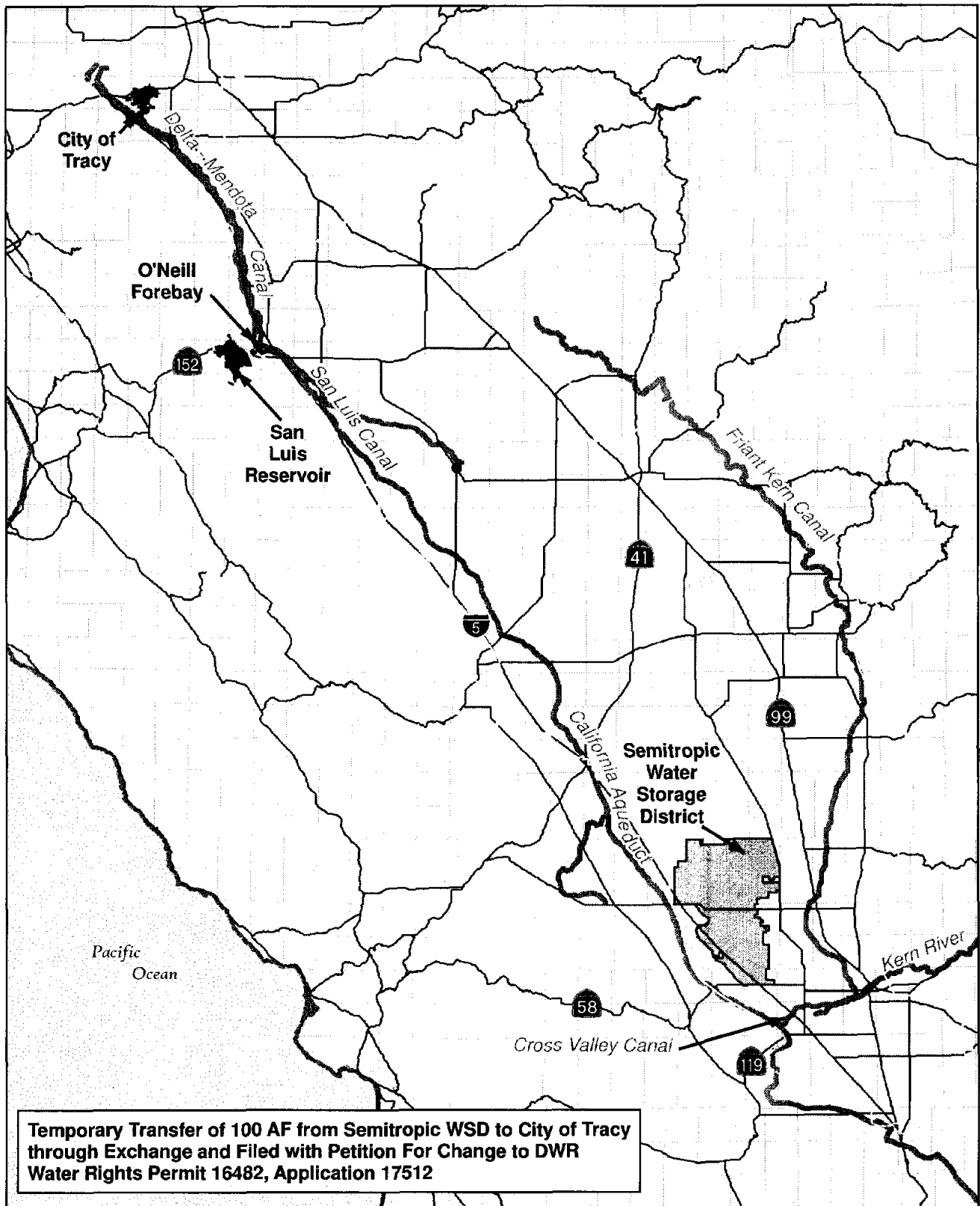
 (916) 653-0190  
Signature(s) Telephone No.

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

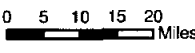
**Proof of Service:** Compliance with W.C. section 1726(c) shall be met by the filing of copies of the proof of service to the Department of Fish and Game and to the board of supervisors of the counties where the water is currently used and the counties to which water is proposed to be transferred.

**Fees:** The following fees must accompany the petition before the petition will be accepted:

1. A minimum filing fee of \$2,000, for each application listed in the petition, shall be submitted with the petition (Water Code section 1547). In addition, the fee of \$0.30 per acre-foot greater than 10 acre-feet shall be submitted with the petition. (Title 23, California Code of Regulations section 1064). The fees are made payable to the State Water Resources Control Board.
2. An \$850 environmental filing fee, made payable to the Department of Fish and Game, must accompany a petition for change (Public Resources Code 10005).



**Temporary Transfer of 100 AF from Semitropic WSD to City of Tracy through Exchange and Filed with Petition For Change to DWR Water Rights Permit 16482, Application 17512**



**PROVOST & PRITCHARD**  
 An Employee Owned Company  
 2505 Alluvial Ave  
 Clovis, CA . 93611  
 (559) 326.1100

**CVP Place of Use**  
 Approximate Boundary