



Linda S. Adams
Acting Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • <http://www.waterboards.ca.gov/waterrights>



Edmund G. Brown Jr.
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF 800 ACRE-FEET OF WATER
TO AREAS WITHIN THE MUSCO OLIVE PRODUCTS COMPANY
UNDER THE CALIFORNIA DEPARTMENT OF WATER RESOURCES'
PERMIT 16479 (APPLICATION 14443)**

Notice is hereby given that on March 2, 2011,

The Department of Water Resources
c/o Nancy Quan, Chief
Program Development and Water Supply and Transfers
P.O. Box 942836
Sacramento, CA 94236-0001

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. requesting the temporary addition of portions of the Musco Olive Products Company (Musco), within the authorized place of use for the Department of Water Resources' (DWR) Permit 16479 (Application 14443) for the State Water Project (SWP). Temporary changes under Water Code section 1725 may be effective for a period up to one year.

DESCRIPTION OF THE TRANSFER

Byron Bethany Irrigation District (BBID) has an existing Central Valley Project (CVP) long-term water supply contract with the U.S. Bureau of Reclamation (Reclamation). 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. State Water Board Revised Water Right Decision 1641 (D-1641) allows 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. Under the proposed exchange, DWR would provide up to 800 acre-feet (af) of SWP water pumped at Banks directly to Musco in exchange for an equivalent amount of CVP water pumped at the Jones Pumping Plant and delivered to the SWP at O'Neill Forebay (O'Neill). The exchange water delivered to O'Neill will be used within the existing CVP place of use including joint service areas within Santa Clara and Kings Counties. No additional water will be pumped from the Delta or delivered to SWP and CVP contractors as a result of this exchange. DWR submitted this petition for temporary change in place of use to facilitate this exchange. The proposed temporary change would be effective for a period of one year from the date of approval. 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 within BBID's service area.

STATUS OF DWR'S WATER RIGHT

Permit 16479 was issued to DWR on August 24, 1951, authorizing DWR to divert to storage up to 3,542,100 af of water between September 1 and July 31 with a maximum diversion rate of 7,545 cubic feet per second between January 1 and December 31 of each year. Authorized sources under Permit 16479 are the Feather River, Italian Slough, and Sacramento-San Joaquin Delta Channels. The water may be used for irrigation, domestic, municipal, industrial, recreation, flood control, salinity control, fish and wildlife enhancement, and to generate incidental power. The

California Environmental Protection Agency

exchange of 800 af of SWP water will be subject to provisions of DWR's permit (set forth in D-1641) and Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the federal Endangered Species Act. The exchange will not increase the total amount of water pumped from the Delta or delivered to SWP and CVP contractors. Thus, the transfer of up to 800 af of water to Musco is not expected to have any additional effect on any natural streamflow or hydrologic regime.

STATUS OF MUSCO'S PROJECT

Musco's service area is located west of the City of Tracy adjacent to the California Aqueduct as shown on the map prepared by DWR, which is available for viewing with the copy of this notice posted on the State Water Board's Division of Water Rights' (Division) website at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes involving the transfer of water that was previously stored are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

1. Involve only water that would otherwise have been consumptively used or stored by permittee or licensee;
2. Would not injure any legal user of the water; and
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses.

If the State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et. seq., then the State Water Board may deny the petition or schedule and notice a hearing regarding the proposed transfer or exchange of water.

OPPORTUNITY FOR COMMENTS

Pursuant to the requirements outlined above, the State Water Board is seeking information to assist in the evaluation of the proposed temporary change of water rights. Any person may file comments concerning the petition for temporary change. The comments must address the required findings set forth above. The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of water, or unreasonably affect fish, wildlife, or other instream beneficial uses. If the State Water Board determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code section 1727). While such a determination has not been made in this case, commenters should provide sufficient information to support claims of injury or effects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division's website at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/. Potential commenters are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the Division's office at the first address listed below by **2:00 p.m. on June 2, 2011**. Additionally, a copy of the comments must be filed with DWR. **Comments must include proof of service of a separate copy of the materials to the petitioner.** Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any materials that will be submitted. An original copy of all materials, however, must be received for the State Water Board to consider your comments.

Division of Water Rights
c/o Patricia Fernandez
P.O. Box 2000
Sacramento, CA 95812-2000
FAX: (916) 341-5400

Department of Water Resources
c/o Nancy Quan
P.O. Box 942836
Sacramento, CA 94236-0001
FAX: (916) 653-9628

Please address questions about this notice to Patricia Fernandez at (916) 319-9141 or pfernandez@waterboards.ca.gov. Questions regarding the petitioner or transferee should be addressed as follows:

DWR-SWP (petitioner):

Nancy Quan (916) 653-0190
FAX: (916) 653-9628

BBID (transferee):

Rick Gilmore (209) 835-0375
FAX: (209) 835-2869

ORIGINAL SIGNED BY
DIANE RIDDLE FOR:

LESLIE F. GROBER, MANAGER
Hearings and Special Programs Section

Dated: April 29, 2011