

TYPE OR PRINT
IN BLACK INK
(For instructions, see
booklet: "How to File an
Application to Appropriate
Water in California")

California Environmental Protection Agency

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
www.waterrights.ca.gov

2007-05-10 11:00 AM
3-107-510

APPLICATION NO. _____
(leave blank)

APPLICATION TO APPROPRIATE WATER

SECTION A: NOTICE INFORMATION

1. APPLICANT/AGENT

a.

	APPLICANT	ASSIGNED AGENT (if any)
Name	Kern Water Bank Authority	Downey Brand LLP Kevin M. O'Brien
Mailing Address	5500 Ming Ave., Ste. 490	555 Capitol Mall, 10th Floor
City, State & Zip	Bakersfield, CA 93309	Sacramento, CA 95814
Telephone	(661) 398-4958	(916) 444-1000
Fax	(661) 398-4959	(916) 444-2100
E-mail	jparker@kwb.org	kobrien@downeybrand.com

2. OWNERSHIP INFORMATION (Please check type of ownership.)

- Sole Owner Limited Liability Company (LLC) General Partnership*
 Limited Partnership* Business Trust Husband/Wife Co-Ownership
 Corporation Joint Venture Other Joint Powers Authority (Cal. Govt. Code §§ 6500 et seq.)

*Please provide a copy of your partnership agreement.

3. PROJECT DESCRIPTION (Provide a detailed description of your project, including, but not limited to, type of construction activity, area to be graded or excavated, and how the water will be used.)

Kern Water Bank Authority ("KWBA") manages 20,500 acres of property along the Kern River to recharge water into the Kern County Sub-Basin of the San Joaquin Groundwater Basin for later extraction and delivery for beneficial use by its member agencies.

For continuation, see Attachment No. ____

4. PURPOSE OF USE, DIVERSION/STORAGE AMOUNT AND SEASON

a. PURPOSE OF USE (Irrigation, domestic, etc.)	DIRECT DIVERSION				STORAGE		
	AMOUNT		SEASON OF DIVERSION		AMOUNT	SEASON OF COLLECTION	
	Rate (cfs or gpd)*	Acre-feet per year	Beginning date (month & day)	Ending date (month & day)	Acre-feet per year	Beginning date (month & day)	Ending date (month & day)
Groundwater Storage for Municipal, Industrial, and Irrigation Uses					500,000	Oct. 1	Sept. 30
Municipal	10 cfs	5,000	Oct. 1	Sept. 30			
Irrigation	1,500 cfs	490,000	Oct. 1	Sept. 30			
Industrial	15 cfs	5,000	Oct. 1	Sept. 30			

9/26/07
\$1850.00
DC

(Power Generation)							
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See Attachment No. ____

*If rate is less than 0.025 cubic feet per second (cfs), use gallons per day (gpd).

- b. Total combined amount taken by direct diversion and storage during any one year will be 500,000 acre-feet.
- c. Reservoir storage is: onstream offstream underground (If underground storage, attach Form APP-UGSTOR.)
- d. County in which diversion is located: Kern County in which water will be used: Various
- e. Assessor's Parcel Number(s): Water will be used throughout KWBA's member agencies' service areas in Kings and Kern Counties as depicted on the attached map, Attachment No. 4, or as otherwise provided by agreements with others and agreed to by the KCWA.

5. SOURCES AND POINTS OF DIVERSION/REDIVERSION

- a. Sources and Points of Diversion (POD)/Points of Rediversion (PORD):
 - POD / PORD #: _____ tributary to _____
thence _____
 - POD / PORD #: _____ tributary to _____
thence _____
 - POD / PORD #: _____ tributary to _____
thence _____
 - POD / PORD #: _____ tributary to _____
thence _____

See Attachment No. 1

b. State Planar and Public Land Survey Coordinate Description:

POD/ PORD #	CALIFORNIA COORDINATES (NAD 27)	ZONE	POINT IS WITHIN (40-acre Subdivision)	SECTION	TOWN- SHIP	RANGE	BASE AND MERIDIAN
			¼ of ¼				
			¼ of ¼				
			¼ of ¼				
			¼ of ¼				

See Attachment No. 1

c. Name of the post office most often used by those living near the proposed point(s) of diversion:
Camino Media, 10001 Camino Media, Bakersfield, CA 93311-1309

6. WATER AVAILABILITY

- a. Have you attached a water availability analysis for this project? YES NO If NO, provide sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation:
The Kern River is currently considered fully appropriated. However, as stated at page 585 of the decision in North Kern Water Storage District v. Kern Delta Water District. (2007) 147 Cal.App.4th 555, Kern Delta has forfeited a significant portion of its pre-1914 appropriative Kern River water rights. Such water may be unappropriated water subject to the jurisdiction of the State Water Resources Control Board.
- See Attachment No. ____
- b. Is your project located on a stream system declared to be fully appropriated by the State Water Resources Control Board during your proposed season of diversion? YES NO
- c. In an average year, does the stream dry up at any point downstream of your project? YES NO There is no "average" year because the flow of the Kern River is highly variable.
If YES, during which months? Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec
- d. What alternate sources of water are available if a portion of your requested diversion season must be excluded because water is not available for appropriation? (e.g., percolating groundwater, purchased water, etc.)
KWBA reserves the right to assert that it holds riparian rights in accordance with California law, based on KWBA's ownership of lands contiguous to the Kern River. In addition, KWBA has previously purchased water from the Central Valley Project. KWBA's member agencies are also member units of the Kern County Water Agency, which is a State Water Project contractor, and so receive water from the State Water Project.

See Attachment No. ____

7. PLACE OF USE

USE IS WITHIN (40-acre subdivision)	SECTION*	TOWNSHIP	RANGE	BASE & MERIDIAN	IF IRRIGATED	
					Acres	Presently cultivated?
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
Total:						

*Please indicate if section is projected with a "(P)" following the section number.

See Attachment No. 2

8. PROJECT SCHEDULE

a. Project is:

- proposed. Year construction will begin: _____
 partially complete. Extent of completion: _____

complete. Year completed: 2002

b. Year of first use: Kern Water Bank Authority first began water recharge activities in 1995.

Year water will be used to the full extent intended: KWBA can put appropriated water to use immediately following issuance of a permit by the State Water Resources Control Board, subject to necessary hydrologic conditions.

SECTION B: MISCELLANEOUS DIVERSION INFORMATION

1. JUSTIFICATION OF AMOUNTS REQUESTED

a. IRRIGATION: Maximum area to be irrigated in any one year: 757,800 acres.

CROP	ACRES	METHOD OF IRRIGATION (sprinklers, flooding, etc.)	WATER USE (Acre-feet/Yr.)	SEASON OF WATER USE	
				Beginning date (month & day)	Ending date (month & day)
Alfalfa, Cotton, Fruits, Grain/Pasture, Grapes, Nursery, Nut Crops, Vegetables	757,800	Sprinklers, Flooding, Drip	2,500,000	Oct. 1	Sept. 30

See Attachment No. _____

b. DOMESTIC: Number of residences to be served: _____ Separately owned? YES NO

Number of people to be served: _____ Estimated daily use per person is: _____ gallons per day

Area of domestic lawns and gardens: _____ square feet

Incidental domestic uses: _____
(dust control area, number and kind of domestic animals, etc.)

c. STOCKWATERING: Kind of stock: _____ Maximum number: _____

Describe type of operation: _____
(feedlot, dairy, range, etc.)

d. RECREATIONAL: Type of recreation: Fishing Swimming Boating Other _____

e. MUNICIPAL:

POPULATION List for 5-year periods until use is completed		MAXIMUM MONTH		ANNUAL USE		
Period	Population	Average daily use (gallons per capita)	Rate of diversion (cfs)	Average daily use (gallons per capita)	Acre-foot (per capita)	Total (acre-feet)
Present	28	325	0.02	325	0.36	10
2010	2778	325	1.6	325	0.36	1,000
2015	6944	325	4.1	325	0.36	2,500
2020	13,889	325	8.1	325	0.36	5,000
2025	13,889	325	8.1	325	0.36	5,000

See Attachment No. _____

Month of maximum use during year: July Month of minimum use during year: March

f. HEAT CONTROL: Area to be heat controlled: _____ net acres

Type of crops protected: _____

Rate at which water is applied to use: _____ gpm per acre

Heat protection season will begin _____ and end _____
(month & day) (month & day)

g. FROST PROTECTION: Area to be frost protected: _____ net acres

Type of crops protected: _____

Rate at which water is applied to use: _____ gpm per acre

The frost protection season will begin _____ and end _____
(month & day) (month & day)

h. INDUSTRIAL: Type of industry: Power Generation

Basis for determination of amount of water needed: Option and Water Services Agreement between Azurix-Pastoria, Inc. and Kern Water Bank Authority, dated March 15, 2001

i. MINING: Name of the claim: _____ Patented Unpatented

Nature of the mine: _____ Mineral(s) to be mined: _____

Type of milling or processing: _____

After use, the water will be discharged into _____ (watercourse)

in _____ ¼ of _____ ¼ of Section _____, T _____, R _____, _____ B. & M.

j. POWER: Total head to be utilized: _____ feet

Maximum flow through the penstock: _____ cfs

Maximum theoretical horsepower capable of being generated by the works (cfs x fall ÷ 8.8): _____

Electrical capacity (hp x 0.746 x efficiency): _____ kilowatts at: _____ % efficiency

After use, the water will be discharged into _____ (watercourse)

in _____ ¼ of _____ ¼ of Section _____, T _____, R _____, _____ B. & M. FERC No.: _____

k. FISH AND WILDLIFE PRESERVATION AND/OR ENHANCEMENT: List specific species and habitat type that will be preserved or enhanced in Item 7a of Section C. *See Attachment No. 3, which identifies species that will be benefited by KWBA's water recharge activities.*

l. OTHER: Describe use: _____

Basis for determination of amount of water needed: _____

2. DIVERSION AND DISTRIBUTION METHOD

a. Diversion will be by gravity by means of: Gated Structures and Weirs
(dam, pipe in unobstructed channel, pipe through dam, siphon, weir, gate, etc.)

b. Diversion will be by pumping from: N/A
(sump, offset well, channel, reservoir, etc)

Pump discharge rate: _____ cfs or gpd Horsepower: _____ Pump Efficiency: _____

c. Conduit from diversion point to first lateral or to offstream storage reservoir:

CONDUIT (pipe or channel)	MATERIAL (type of pipe or channel lining; indicate if pipe is buried or not)	CROSS-SECTION (pipe diameter, or ditch depth and top and bottom width) (inches or feet)	LENGTH (feet)	TOTAL LIFT OR FALL		CAPACITY (cfs, gpd or gpm)
				feet	+ or -	
Pipe or Channel	CMP, RCP, HDPE	Varies	Varies	Varies	(-)	40 to 800 cfs

See Attachment No. 1

d. Storage reservoirs: (For underground storage, complete and attach form APP-UGSTOR)

RESERVOIR NAME OR NUMBER	DAM					RESERVOIR	
	Vertical height from downstream toe of slope to spillway level (feet)	Construction material	Length (feet)	Freeboard: dam height above spillway crest (feet)	Surface area when full (acres)	Capacity (acre-feet)	Maximum water depth (feet)

See Attachment No. _____

e. Outlet pipe: Complete for storage reservoirs having a capacity of 10 acre-feet or more.

RESERVOIR NAME OR NUMBER	OUTLET PIPE				
	Diameter (inches)	Length (feet)	Fall: vertical distance between entrance and exit of outlet pipe (feet)	Head: vertical distance from spill- way to entrance outlet pipe (feet)	Dead Storage storage below entrance of outlet pipe (acre-feet)

See Attachment No. _____

f. If water will be stored and the reservoir is not at the point of diversion, the maximum rate of diversion to off-stream storage will be 1,200 cfs. Diversion to offstream storage will be made by: Pumping Gravity

* Storage is in an underground storage reservoir. See Underground Storage Supplement.

3. CONSERVATION AND MONITORING

a. What methods will you use to conserve water? Explain. KWBA does not consumptively use water, but only delivers water to its member agencies and stores water underground. Thus, all water conservation practices are carried out by the consumptive water users, KWBA's member agencies.

b. How will you monitor your diversion to be sure you are within the limits of your water right and you are not wasting water? Weir Meter Periodic sampling Other (describe) All diversions into and extractions are monitored by the California Department of Water Resources through State Water Project facilities, the Kern River Watermaster, or the Kern County Water Agency.

4. RIGHT OF ACCESS

a. Does the applicant own all the land where the water will be diverted, transported and used? YES NO
If NO, I do do not have a recorded easement or written authorization allowing me access.

* KWBA has recorded easements and agreements for all of its diversion points except for the California Aqueduct, as explained below.

b. List the names and mailing addresses of all affected landowners and state what steps are being taken to obtain access: Department of Water Resources, 1416 N. 11th Street, Sacramento, CA 95814. KWBA currently operates under an interim agreement between Kern County Water Agency and the Department of Water Resources. KWBA will need to enter into a long-term agreement with the Department of Water Resources to use the California Aqueduct consistent with established Departmental policy.

See Attachment No. _____

5. EXISTING WATER RIGHTS AND RELATED FILINGS

a. Do you claim an existing right for the use of all or part of the water sought by this application? YES NO
If YES, please specify: Riparian Pre-1914 Registration Permit License
 Percolating groundwater Adjudicated Other (specify) _____

b. For each existing right claimed, state the source, year of first use, purpose, season and location of the point of diversion (to within quarter-quarter section). Include number of registration, permit, license, or statement of water diversion and use, if applicable. KWBA reserves the right to assert that it holds riparian rights in accordance with California law, based on KWBA's ownership of lands contiguous to the Kern River.

c. List any related applications, registrations, permits, or licenses located in the proposed place of use or that utilize the same point(s) of diversion? _____

See Attachment No. _____

6. OTHER SOURCES OF WATER

Are you presently using, or do you intend to use, purchased water or water supplied by contract in connection with this project? Yes No If yes, please explain: KWBA has used, and will likely continue to use, Central Valley Project water and/or State Water Project water pursuant to the Kern County Water Agency's contractual rights.

7. MAP REQUIREMENTS

The Division cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section and quarter/quarter section of (1) the proposed points of diversion and (2) the place of use. A copy of a U.S.G.S. quadrangle/topographic map of your project area is preferred, and can be obtained from sporting goods stores or through the Internet at <http://topomaps.usgs.gov>. A certified engineering map is required when (1) appropriating more than three cfs by direct diversion, (2) constructing a dam which will be under the jurisdiction of the Division of Safety of Dams, (3) creating a reservoir with a surface area in excess of ten acres or (4) appropriating more than 1000 acre-feet per annum by underground storage. See the instruction booklet for more information.

See Attachment No. 4, 5, 6, and 7

SECTION C: ENVIRONMENTAL INFORMATION

Note: Before a water right permit may be issued for your project, the State Water Resources Control Board (SWRCB) must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared for your project, a determination must be made of who is responsible for its preparation. If the SWRCB is determined to be responsible for preparing the CEQA document, the applicant will be required to pay all costs associated with the environmental evaluation and preparation of the required documents. Please answer the following questions to the best of your ability and submit with this application any studies that have been conducted regarding the environmental evaluation of your project.

1. COUNTY PERMITS

a. Contact your county planning or public works department and provide the following information:

Person contacted: Thomas Hardy Date of contact: Most recent permit dated June 9, 2004

Department: Environmental Health Services Department Telephone: (661) 862-8700

County Zoning Designation: Various

Are any county permits required for your project? YES NO If YES, check appropriate box below:

Grading permit Use permit Watercourse Obstruction permit Change of zoning

General plan change Other (explain): Permits to Construct, Reconstruct, Deepen or Destroy a Well

b. Have you obtained any of the required permits described above? YES NO

If YES, provide a complete copy of each permit obtained.

See Attachment No. 8

2. STATE/FEDERAL PERMITS AND REQUIREMENTS

a. Check any additional state or federal permits required for your project:

Federal Energy Regulatory Commission U.S. Forest Service U.S. Bureau of Land Management

U.S. Corps of Engineers U.S. Natural Res. Conservation Service Calif. Dept. of Fish and Game

State Lands Commission Calif. Dept. of Water Resources (Div. of Safety of Dams)

Calif. Coastal Commission State Reclamation Board Other (specify) U.S. Fish and Wildlife Service

KWBA has permits for the project from California Department of Fish and Game and the United States Fish and Wildlife Service.

b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.
U.S. Fish and Wildlife Service	Federal Endangered Species Act Take Permits Nos. PRT-828086 and PRT-835054	Susan Jones	Permits Signed and Dated Oct. 2, 1997	(916) 414-6631
California Department of Fish and Game	Habitat Conservation Plan/Natural Community Conservation Plan and Take Authorization	William Loudermilk	Authorization signed by Jacqueline E. Schaefer, Director of California Department of Fish and Game, and dated Oct. 2, 1997	(559) 243-4005 x 156
California Department of Fish and Game	California Endangered Species Act Management Authorization for Implementation of the Habitat Conservation Plan/Natural Community Conservation Plan and Take Authorization	William Loudermilk	Authorization signed by Jacqueline E. Schaefer, Director of California Department of Fish and Game, and dated Oct. 2, 1997	(559) 243-4005 x 156

See Attachment No. _____

c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank, or riparian habitat of any stream or lake? YES NO
If YES, explain: _____

See Attachment No. _____

d. Have you contacted the California Department of Fish and Game concerning your project? YES NO
If YES, name and telephone number of contact: William Loudermilk, (559) 243-4005 x 156

3. ENVIRONMENTAL DOCUMENTS

- a. Has any California public agency prepared an environmental document for your project? YES NO
- c. If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: Kern Water Bank Authority
- d. If NO, check the appropriate box and explain below, if necessary:
- The applicant is a California public agency and will be preparing the environmental document.*
 - I expect that the SWRCB will be preparing the environmental document.**
 - I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.* Public agency: _____

See Attachment No. 9, Notice of Determination for the Kern Water Bank Habitat Conservation Plan/Natural Community Conservation Plan and Initial Study and Addendum to Monterey Agreement EIR

* Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your a application cannot proceed until these documents are submitted.

** Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the applicant and at the applicant's expense under the direction of the SWRCB, Division of Water Rights.

4. WASTE/WASTEWATER

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?
 YES NO

If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):

See Attachment No. _____

- b. Will a waste discharge permit be required for your project? YES NO
- Person contacted: _____ Date of contact: _____
- c. What method of treatment and disposal will be used? N/A

See Attachment No. _____

5. ARCHEOLOGY

- a. Have any archeological reports been prepared on this project? YES NO
- b. Will you be preparing an archeological report to satisfy another public agency? YES NO (already completed)
- c. Do you know of any archeological or historic sites located within the general project area? YES NO

See Attachment No. _____

6. ENVIRONMENTAL SETTING

Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the following three locations:

- : Along the stream channel immediately downstream from the proposed point(s) of diversion.
- : Along the stream channel immediately upstream from the proposed point(s) of diversion.
- : At the place(s) where the water is to be used.

See Attachment No. 10

* KWBA is submitting its photographs electronically on the attached CD. If the SWRCB wishes to have three hard copy sets of each photograph, we would be happy to provide such upon request.

SECTION D: SUBMITTAL FEES

Calculate your application filing fee using the "Water Right Fee Schedule Summary" that was enclosed in the application packet. The "Water Right Fee Schedule Summary" can also be viewed at the Division of Water Rights' website (www.waterrights.ca.gov).

A check for the application filing fee, payable to the "Division of Water Rights" and an \$850 check for the environmental review fee, payable to the "California Department of Fish and Game," must accompany this application. All applicable fees are required at the time of filing. Your application will be returned to you if it is not accompanied by all required fees.

SECTION E: DECLARATION AND SIGNATURE

I declare under penalty of perjury that all information provided is true and correct to the best of my knowledge and belief. I authorize my agent, if I have designated one above, to act on my behalf regarding this water right application.

Jon [Signature] _____ General Manager 9-26-07
 Signature of Applicant Title or Relationship Date

 Signature of Co-Applicant (if any) Title or Relationship Date

"APPLICATION TO APPROPRIATE WATER" CHECKLIST

Before you submit your application, be sure to:

- Answer each question completely in Sections A, B, and C.
- Number and include all necessary attachments.
- Include a legible map that meets the requirements discussed in the instruction booklet (Item B6).
- Include the Water Availability Analysis or sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation (Item A6).
- Include three complete sets of color photographs of the project site (Item C6).
- Enclose a check for the required fee, payable to the Division of Water Rights, as specified in Section D.
- Enclose a \$850 check for the environmental review fee, payable to the Department of Fish and Game, as specified in Section D.
- Sign and date the application in Section E.

Send the original and one copy of the entire application to:

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000