



Water Resources • Flood Control • Water Rights

VAV/SRA/KOM
10030

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ANGUS NORMAN MURRAY
1913-1985

2010 APR 14 PM 3:18

CONSULTANTS:
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DONALD E. KIENLEN, P.E.

April 14, 2010

Ms. Victoria Whitney, Deputy Director
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

**Subject: Tule Basin Farms Petition for Temporary Transfer
under License 2840 (Application 10030)**

Dear Ms. Whitney:

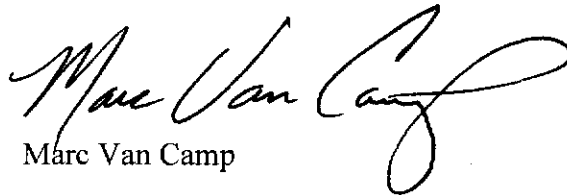
On behalf of Tule Basin Farms, enclosed are the following documents relative to a
Petition for Temporary Transfer under Tule Basin Farms' License 2840 (Application 10030):

1. Petition for Temporary Transfer Form with Attachment (one original and one copy).
2. Environmental Information Form with Attachment (one original and one copy).
3. Check in the amount of \$3,053.00 to cover the Petition fees.
4. Check in the amount of \$850 to cover the fee for the Department of Fish and Game.

Tule Basin Farms is petitioning to temporarily add points of diversion, place of use, and purposes of use to its License 2840 in order to transfer up to a total of 3,520 AF to participating State Water Contractor (SWC) Agencies by groundwater substitution. As you are aware, time is of the essence to process this petition for the implementation of the water transfer to the SWC Agencies; and we appreciate your attention to this temporary transfer petition.

Please call if you have any questions or require additional information.

Sincerely,
MBK ENGINEERS


Marc Van Camp

DC/pp
1474.10/TULE BASIN FARMS - VICTORIA WHITNEY 2010-04-14.DOC

Enclosures

Rec'd
4/14/10

cc: John Brennan, Tule Basin Farms (via e-mail)
Andrew Hitchings, Somach, Simmons & Dunn (via e-mail)
Jacqueline McDonald, Somach, Simmons & Dunn (via e-mail)
Nancy Quan, DWR SWPAO (via e-mail)
Edward Diamond, DWR SWPAO (via e-mail)
Chris Bonds, DWR Central District (via e-mail)
Tim Rust, U.S. Bureau of Reclamation (via e-mail)
Brad Hubbard, U.S. Bureau of Reclamation (via e-mail)
Jacqueline Matthews, CVRWQCB (via certified mail)
Lauren Dailey, Department of Fish and Game (via certified mail and via e-mail)
Board of Supervisors, County of Sutter (via certified mail)
Board of Supervisors, County of Orange (via certified mail)
Board of Supervisors, County of Kern (via certified mail)
Board of Supervisors, County of Los Angeles (via certified mail)
Board of Supervisors, County of Kings (via certified mail)
Board of Supervisors, County of Stanislaus (via certified mail)
Board of Supervisors, County of Riverside (via certified mail)
Board of Supervisors, County of San Diego (via certified mail)
Board of Supervisors, County of Ventura (via certified mail)
Board of Supervisors, County of San Bernardino (via certified mail)
Board of Supervisors, County of Napa (via certified mail)

TULE BASIN FARMS, LLC

2073

State Water Resources Control Board

4/13/2010

3,053.00

Checking Wells Fargo

3,053.00

TULE BASIN FARMS, LLC

2074

Calif. State Department of Fish & Game

4/13/2010

850.00

Checking Wells Fargo

850.00

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). 10030 Permit No. _____ License No. 2840
 Statement or Other No. _____

Present Holder and User of Water Right

Tule Basin Farms, LLC	c/o Marc Van Camp, Agent	(916) 456-4400
Person or Company name	Contact person	Telephone No
1771 Tribute Road, Suite A	Sacramento	CA
Address	City	State
vancamp@mbkengineers.com		95815
E-MAIL (For noticing purposes)		Zip Code

Co-petitioner

N/A

Person or Company name	Contact person	Telephone No
Address	City	State
E-MAIL (For noticing purposes)		Zip Code

Proposed New User

See Attachment No. 1

Person or Company name	Contact person	Telephone No
Address	City	State
E-MAIL (For noticing purposes)		Zip Code

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 3,520 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 21 cubic feet per second (cfs).

Period of Transfer/Exchange (Not to exceed one year) July 1, 2010 through September 30, 2010

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.

Rec'd
 4/14/10
 \$ 31,053.00
 \$ 850.00
 OC

Present See Attachment No. 1
Proposed See Attachment No. 1

Place of Use

Present See Attachment No. 1
Proposed See Attachment No. 1

Purpose of Use

Present See Attachment No. 1
Proposed See Attachment No. 1

	Season of Use	Direct Use (cfs)	Storage (ac-ft)
Present	<u>No Change Requested</u>	<u>No Change Requested</u>	<u>No Change Requested</u>
Proposed	<u>No Change Requested</u>	<u>No Change Requested</u>	<u>No Change Requested</u>

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

The proposed transfer/exchange water will be placed to beneficial use within the following county/counties:
See Attachment No. 1

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. See Attachment No. 1

2a. If the point of diversion/redirection is being changed, are there any person(s) taking water from the stream between the present point of diversion/redirection and the proposed point? Yes
(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? Yes
(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.
See Attachment No. 1

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. See Attachment No. 1

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). See Attachment No. 1

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. See Attachment No. 1

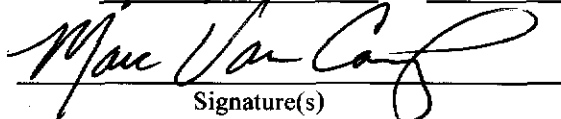
5a. Consult with the California Department of Fish and Game pursuant to CCR 794(b) concerning the proposed temporary change. State the name and phone number of the person(s) contacted and their opinion concerning the potential effect(s) of the proposed temporary change on fish, wildlife, or other instream beneficial uses, and state any measures recommended for mitigation. See Attach. No. 1

- 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. See Attachment No. 1
-
- 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). See Attachment No. 1
-
- 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.

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

Dated: 4/14/2010 at Sacramento, California


Signature(s)

(916) 456-4400
Telephone No.

NOTE: This petition shall be accompanied by all information required by this farm 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.

**Attachment No. 1
to Petition for Temporary Transfer
License 2840 (Application 10030)
held by Tule Basin Farms, LLC**

GENERAL

The purpose of this Petition for Temporary Transfer is to: (1) add the State Water Project's (SWP) Harvey O. Banks Pumping Plant and Barker Slough Pumping Plant as points of diversion, (2) change the place of use to include the service areas served by the SWP export facilities, and (3) add Domestic, Municipal, and Industrial, as purposes of use under License 2840 (Application 10030). This petition is being filed to facilitate a one-year transfer of up to 3,520 acre-feet (AF) of surface water from Tule Basin Farms, which will be made available by groundwater substitution, to the participating State Water Contractor (SWC) Agencies in order to provide an additional municipal, industrial, and domestic water supply. Groundwater substitution involves the use of water pumped to produce crops within Tule Basin Farms in exchange for a like amount of surface water that will remain instream for diversion at the proposed additional points of diversion. Absent the proposed temporary transfer, Tule Basin Farms would divert the entire quantity of surface water proposed for transfer from the West Borrow Pit of the Sutter By-Pass pursuant to its water right.

PROPOSED NEW USER

The proposed new users will be water users within the following eight SWC Agencies listed below:

- ANTELOPE VALLEY-EAST KERN WATER AGENCY,
- DUDLEY RIDGE WATER DISTRICT,
- KERN COUNTY WATER AGENCY,
- METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,
- NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
- OAK FLAT WATER DISTRICT,
- PALMDALE WATER DISTRICT, AND
- SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT.

POINT OF DIVERSION OR REDIVERSION

Present Point of Diversion:

<u>Description*</u>	<u>Located Within*</u>			
	<u>¼, ¼</u>	<u>Sec</u>	<u>T</u>	<u>R</u>
North 950 feet and West 275 feet from SE corner of Section 5, T14N, R2E	SE, SE	5	14N	2E

* All references to Section, Township, and Range are to the MDB&M.

Proposed Additional Points of Diversion:

No change in the present point of diversion is proposed. Tule Basin Farms proposes to add the following points of diversion:

Banks Pumping Plant via the Clifton Court Forebay

N 486,035, E 1,695,057, California Coordinate System Zone 3, within the NW ¼ of SE ¼ of Projected Section 20, T1S, R4E, MDB&M

Barker Slough Pumping Plant

N 567,682, E 2,017,761, California Coordinate System Zone 2, within the NE ¼ of SW ¼ of Projected Section 18, T5N, R2E, MDB&M.

These proposed additional points of diversion are identified on maps filed with the Division of Water Rights (Division) under Application 5630.

PLACE OF USE

Present:

The present place of use is 842.13 acres within the North Basin Tract, as shown on maps contained in the Division's files for License 2840.

Proposed:

No change in the present place of use is proposed. Tule Basin Farms proposes to add the service area of the SWP as the proposed additional place of use in order to facilitate the temporary water transfer to the participating SWC Agencies. The service area of the SWP is shown on Map 1878 – 1, 2, 3, and 4 on file with the Division under Application 5630.

PURPOSE OF USE

Present:

Irrigation.

Proposed:

Tule Basin Farms proposes to temporarily add Domestic, Municipal, and Industrial as additional purposes of use.

PROPOSED TRANSFER WILL BE PLACED TO USE IN THE FOLLOWING COUNTY/COUNTIES

The water will be placed to beneficial use within the following counties: Napa, Stanislaus, Kings, Kern, Ventura, Los Angeles, Orange, San Diego, San Bernardino, and Riverside.

RESPONSES TO NUMBERED ITEMS ON PETITION:

- 1b.** Absent the proposed temporary transfer to the participating SWC Agencies, groundwater would not be pumped and Tule Basin Farms would have diverted surface water to meet its irrigation demands.
- 2c.** Tule Basin Farms is proposing to add the SWP Banks Pumping Plant and Barker Slough Pumping Plant as additional points of diversion. The proposed transfer will result in an increase in the flow between Tule Basin Farms' present point of diversion and the additional proposed points of diversion. This increase in flow, up to approximately 21 cfs assuming the groundwater wells proposed to participate in the water transfer are operating simultaneously, may result in a positive effect to the water users between the present point of diversion and the proposed additional points of diversion. These water users may include the Delta water users, the CVP, the SWP, and the Cities of Sacramento and West Sacramento. See files of the State Water Resources Control Board.
- 3a & 3b.** Surface water will be made available for transfer from Tule Basin Farms' groundwater substitution program, consistent with the Draft Technical Information for Water Transfers in 2010 (Draft Technical Information) published by the Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation). The Draft Technical Information has been developed to address the concerns of DWR and Reclamation relative to the potential impacts that water transfers may have on other legal users. Tule Basin Farms has submitted a proposal to DWR and Reclamation for a water transfer to the participating SWC Agencies during 2010, which includes detailed information relative to historical groundwater pumping, groundwater well characteristics, and associated maps. Currently, DWR and Reclamation are conducting an extensive review of these documents in order to ensure that the quantity of water proposed to be made available by Tule Basin Farms meets the relevant criteria to demonstrate that a reduction in surface water use will occur as a result of the proposed groundwater substitution. In addition, it is our understanding that Reclamation is in contact with the U.S. Fish and Wildlife Service (USFWS) to address potential concerns.

Only wells which have been approved by DWR will be used for the proposed temporary transfer. Tule Basin Farms does not believe the proposed temporary transfer to the SWC Agencies by groundwater substitution will result in an overdraft of the underlying groundwater basin. As a condition of participation in the proposed temporary transfer, Tule Basin Farms has developed a monitoring and mitigation plan

Tule Basin Farms License 2840
Attachment to Petition for Temporary Transfer

to assure the proposed transfer does not result in any unreasonable impacts to the groundwater basin.

As a result of this proposed temporary transfer, the flow in the West Borrow Pit of the Sutter By-Pass will increase by up to 3,520 AF during the period of the transfer over what would have occurred absent the proposed transfer. The increased flow in the West Borrow Pit of the Sutter By-Pass, thence tributary to the Sacramento River, to the proposed additional points of diversion will be a small percentage of the total flow and will be water that would be available to Tule Basin Farms, absent this proposed transfer. Therefore, there will be no injury to other legal water users, water quality, or return flows; in fact, the increased flows may result in instream benefits through the increased flow below Tule Basin Farms' point of diversion.

- 4.** The Central Valley Regional Water Quality Control Board (CVRWQCB) was contacted; and no comments were provided at this time. A copy of this petition has been provided to Jacqueline Matthews (530-224-4845) of the CVRWQCB.
- 5a.** The Department of Fish and Game (DFG) was contacted; and no comments were provided at this time. A copy of this petition has been provided to Lauren Dailey (916-358-2909) of DFG.
- 5c & 5d.** The proposed temporary transfer may provide environmental benefits through increased flows downstream of Tule Basin Farms' present point of diversion due to the reduction in surface water diversions. These reduced diversions may provide additional flows during critical periods of the year from Tule Basin Farms' point of diversion to the proposed additional points of diversion. These additional flows may enhance habitat for fisheries and wildlife.

2. COUNTY PERMITS NOT APPLICABLE.

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

Person contacted: _____ Date of contact: _____

Department: _____ Telephone: (____) _____

County Zoning Designation: _____

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): _____

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. _____

3. STATE/FEDERAL PERMITS AND REQUIREMENTS NOT APPLICABLE.

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

- Federal Energy Regulatory Commission U.S. Forest Service Bureau of Land Management
 Soil Conservation Service Dept. of Water Resources (Div. of Safety of Dams) Reclamation Board
 Coastal Commission State Lands Commission Other (specify) _____

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

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.

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 or bank 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: Lauren Dailey (916) 358-2909

4. ENVIRONMENTAL DOCUMENTS

a. Has any California public agency prepared an environmental document for your project? YES NO
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: _____

b. If NO, check the appropriate box and explain below, if necessary: **SEE ATTACHMENT No. 1**

The petitioner 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. 1

* **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 petition 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 petitioner and at the petitioner's expense under the direction of the SWRCB, Division of Water Rights.

5. WASTE/WASTEWATER NOT APPLICABLE.

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? _____

See Attachment No. _____

6. 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

c. Do you know of any archeological or historic sites located within the general project area? YES NO

If YES, explain: _____

See Attachment No. ____

7. ENVIRONMENTAL SETTING SEE ATTACHMENT No. 1

Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- 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.

8. CERTIFICATION

I hereby certify that the statements I have furnished above and in the attachments are complete to the best of my ability and that the facts, statements, and information presented are true and correct to the best of my knowledge

Date:

4-14-2010

Signature:



**Attachment No. 1
to Environmental Information for
Petition for Temporary Transfer
License 2840 (Application 10030)
held by Tule Basin Farms, LLC**

1. DESCRIPTION OF PROJECT

Tule Basin Farms is petitioning to temporarily add points of diversion, place of use, and purposes of use to the water right identified above in order to transfer up to 3,520 AF to participating State Water Contractor (SWC) Agencies by groundwater substitution. The State Water Project's (SWP) Banks Pumping Plant and Barker Slough Pumping Plant are proposed to be added as points of diversion. In addition, the service area of the State Water Project (SWP) is proposed to be added as a place of use. Domestic, Municipal, and Industrial are proposed to be added as purposes of use. There is no change to the existing point of diversion, place of use, or purpose of use. These proposed additions would authorize the transfer of water to the SWC Agencies during July through September 2010.

The quantity of water to be made available by groundwater substitution involves the use of water pumped upon overlying lands in exchange for a like amount of surface water that will remain instream for diversion at the proposed additional points of diversion. Absent the proposed temporary transfer, Tule Basin Farms would have diverted up to 3,520 AF of surface water from the West Borrow Pit of the Sutter By-Pass pursuant to its water rights. For this reason, the proposed temporary transfer does not involve any construction or other physical changes to Tule Basin Farms' facilities.

4. ENVIRONMENTAL DOCUMENTS

Petitions for temporary transfer of water pursuant to Water Code Section 1725 are exempt from CEQA. In February 2010, the U.S. Bureau of Reclamation prepared an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) for water transfers during 2010 and 2011 pursuant to the requirements under the National Environmental Policy Act (NEPA). This EA and FONSI are available on Reclamation's web site at: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=4699. Although the EA and FONSI do not attempt to address the Tule Basin Farms' proposed water transfer directly, Section 3.18 of the EA covers Cumulative Effects, including a water transfer from Tule Basin Farms of up to a quantity greater than identified in this Petition in 2010.

7. ENVIRONMENTAL SETTING

The proposed additions to the existing point of diversion include existing facilities that are well known and documented with the Division of Water Rights (Division). In addition, the proposed addition to the place of use is also well known and documented with the Division. Therefore, for these reasons, photographs of the proposed additional points of diversion and place of use are not included.