

Notice of Exemption

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

Contra Costa County Clerk
555 Escobar Street
Martinez, CA 94553

Alameda County Clerk-Recorder's Office
1106 Madison Street
Oakland, CA 94607

From: Contra Costa Water District
P.O. Box H20
Concord, CA 94524
925-688-8168
Lead Agency/Applicant and
Filing Agency

Project Title: Contra Costa Water District (CCWD) One-Year Water Transfer to Alameda County Water District (ACWD)

Project Applicant: Contra Costa Water District

Project Location - Specific: ACWD service area would receive water originating from CCWD

Project Location - City: Various **Project Location - County:** Contra Costa and Alameda Counties

Description of Nature, Purpose and Beneficiaries of Project:

In response to on-going drought conditions, CCWD and ACWD have entered into an agreement under which CCWD will transfer up to 5,000 acre-feet of water to ACWD between July 1 and November 30, 2022. Through a separate agreement and water right approval process, CCWD will initially acquire transfer water from Yuba County Water Agency to store in Los Vaqueros Reservoir this spring for ACWD. This summer, CCWD will use this water stored for ACWD in Los Vaqueros Reservoir to meet CCWD service area demands in lieu of diverting a portion of its 2022 Central Valley Project (CVP) contract allocation from the Delta at the Rock Slough, Old River, and/or Middle River Intakes. The Department of Water Resources (DWR) will then divert the forgone CCWD CVP water from the Delta at Banks Pumping Plant, for delivery to ACWD through the South Bay Aqueduct. Bureau of Reclamation (Reclamation) approval of this in-lieu exchange of CCWD CVP water to ACWD is needed. State Water Resources Control Board approval of a temporary change petition to add DWR's Banks Pumping Plant as a point of diversion or rediversion on Reclamation's CVP water rights is needed to allow a portion of the CCWD CVP water to be diverted or rediverted through Banks Pumping Plant. The transfer water will be used within the authorized place of use for CVP water, which includes the service area of ACWD. Transfer water delivered to ACWD will be a supplemental water supply to mitigate for anticipated water-supply shortages in ACWD's service area.

Name of Public Agency Approving Project: Contra Costa Water District

Name of Person or Agency Carrying Out Project: Contra Costa Water District

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption. CEQA Guidelines Section 15301, Use of Existing Facilities
- Statutory Exemptions. State code number: Water Code section 1729, Temporary Change; CEQA Guidelines Section 15282(u)

Reasons why project is exempt:

The project is exempt from CEQA pursuant to Public Resources Code Section 21080 (b)(3) and CEQA Guidelines Section 15269(a) due to the Declared Emergency. On April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, Governor Newsom issued a series of Proclamations of a State of Emergency to address the extreme and expanding drought conditions; the May 10th Proclamation extended the drought state of emergency to a majority of California counties, including Contra Costa and Alameda Counties. Government Code section 8571 authorizes the Governor to suspend certain regulatory requirements, including CEQA, under emergency conditions. The May 10th Proclamation ordered the State “to expeditiously consider requests to move water to areas of need, including requests involving voluntary water transfers, forbearance agreements, water exchanges, or other means,” and suspends CEQA for purposes of carrying out or approving this and other directives. On March 28, 2022, to address the continued severe drought, the Governor issued Executive Order N-7-22, which affirms that the above CEQA exemption for water transfers remains in effect. The project will carry out this directive and will prevent or mitigate the impacts of the drought emergency.

As a separate and independent basis for determining the project to be exempt, the project also is statutorily exempt from CEQA pursuant to Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269(c) because it involves specific actions necessary to prevent or mitigate the drought emergency.

As a separate and independent basis for determining the project to be exempt, the project is also eligible for a Class 1 categorical exemption under CEQA Guidelines Section 15301 for Existing Facilities. Conveyance of the transfer water would occur through existing facilities and would not exceed the normal capacity of those facilities. Accordingly, no construction of new or expansion of existing water conveyance facilities is required to facilitate the proposed transfer of water.

As a separate and independent basis for determining the project to be exempt, the project is also statutorily exempt from CEQA pursuant to Water Code section 1729 and CEQA Guidelines section 15282(u) because it is a temporary change of point of diversion involving a transfer of water for a period of one year or less through existing facilities.

As a separate and independent basis for determining the project to be exempt, the project also falls within the “common sense” exemption to CEQA, which applies “the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” (CEQA Guidelines, § 15061(b)(3).) This exemption applies if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” (*Id.*) There will be no new physical construction or alterations to facilities associated with the project. The water will be conveyed through existing facilities and will not exceed their normal capacity.

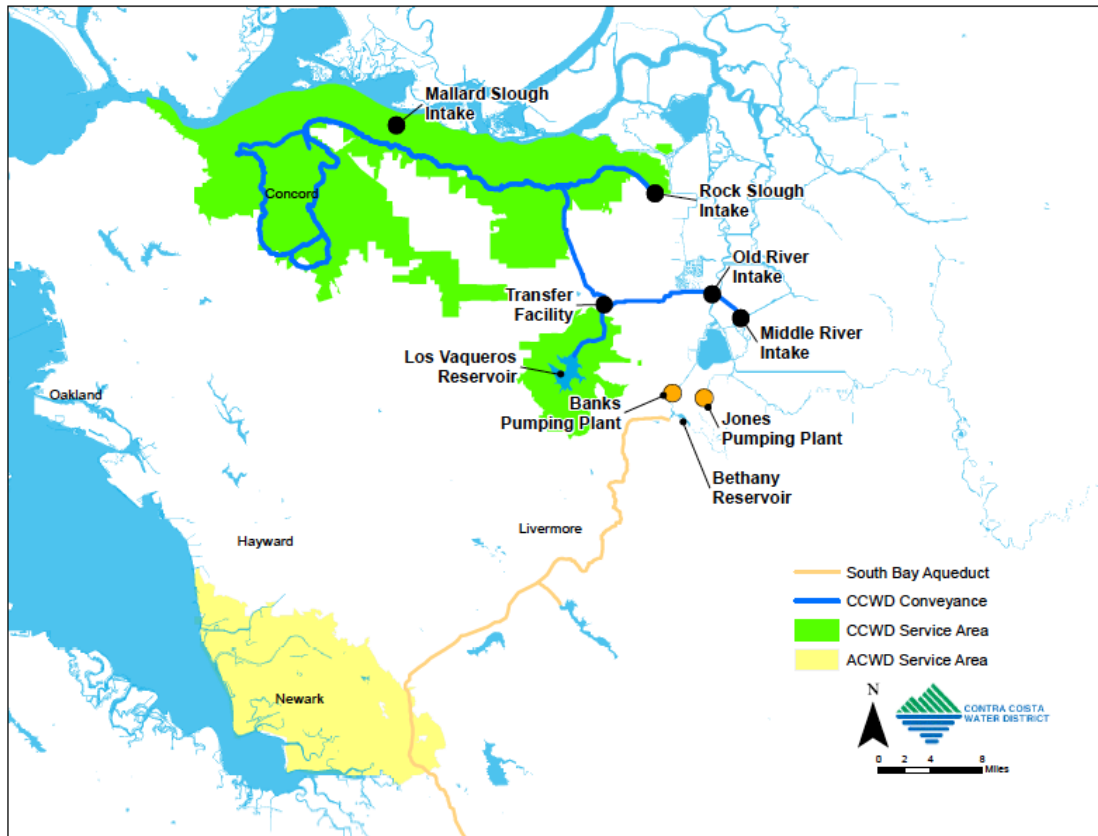


Figure 1. Map of ACWD and CCWD service areas and facilities

Lead Agency

Contact Person: Lucinda Shih

Area Code/Telephone/Extension: (925) 688-8168

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Lucinda Shih Date: 4/25/2022 Title: Water Resources Manager

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Date Received for filing at OPR: _____

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.