

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 1772 PERMIT 1120 LICENSE 657

**ORDER TO DELETE POINT OF DIVERSION,
CORRECT PLACE OF USE AND
AMEND LICENSE**

WHEREAS:

1. License 657 was issued to the Sutter Mutual Water Company on January 31, 1928 pursuant to Application 1772 and was recorded with the County Recorder of Sutter County on February 25, 1928.
2. An inspection of the project was conducted by the State Water Resources Control Board (State Water Board) staff on June 6, 1991. Staff determined that point of diversion No. 3 has been abandoned and should be deleted from this license. Staff also recommended the description for the place of use (POU) should be corrected to correspond to the POU as shown on a map dated January 8, 1965, which is on file with State Water Board.
3. The State Water Board has determined that said corrections will not constitute a new right nor operate to the injury of any other lawful user of water and that good and sufficient causes has been shown for said corrections.
4. The Sutter County Recorder should be notified of the corrective actions.
5. The license condition pertaining to the continuing authority of the State Water Board does not conform to the current common law public trust doctrine as contained in Title 23, California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description of the points of diversion under this license be corrected to read:

(1) FRANK LAMB PUMP - South four thousand eight hundred nineteen (4,819) feet and West seven hundred eighty (780) feet from NE corner of Section 26, T14N, R1E, MDB&M, being within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 26. Also described as California Coordinate System, Zone 2, N 495,800 and E 2,050,800.

(2) TISDALE PUMPING PLANT - South fifty-six degrees thirty-five minutes West (S56°35'W) three thousand four hundred forty-five (3,445) feet from N $\frac{1}{4}$ corner of Section 36, T14N, R1E, MDB&M, being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 35, T14N, R1E, MDB&M. Also described as California Coordinate System, Zone 2, N 493,400 and E 2,051,400.

(4) STATE RANCH BEND PUMPING PLANT - South seventy-four degrees forty-seven minutes East (S74°47'E) three thousand six hundred ninety-one (3,691) feet from W $\frac{1}{4}$ corner of Section 21, T12N, R2E, MDB&M, being within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 21. Also described as California Coordinate System, Zone 2, N 438,500 and E 2,070,500.

(5) PORTUGUESE BEND PUMPING PLANT - South twenty-five degrees twenty-two minutes, fifty-six seconds West (S25°22'56"W) three thousand five hundred sixteen and eighty-four hundredths (3,516.84) feet from the NE corner of fractional Section 13, T11N, R2E, MDB&M, being within E $\frac{1}{2}$ of said Section 13 and approximately at Mile 32.49L of Sacramento-San Joaquin Water Supervision Records. Also described as California Coordinate System, Zone 2, N 412,300 and E 2,086,800.

2. The description of the place of use under this license be corrected to read:

50,544 acres within the boundaries of the Sutter Mutual Water Company lands being within T11N, R2E and R3E; T12N, R2E, and R3E; T13N, R1E, R2E, and R3E; and T14N, R1E and R2E, MDB&M.

3. The Sutter County Recorder shall be notified of the corrective actions.
4. The existing continuing authority condition in this license be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: **NOVEMBER 17 1992**

Ed C. Anton

for, Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

ORDER

APPLICATION 1772

PERMIT 1120

LICENSE 657

ORDER ALLOWING CHANGE IN POINTS OF DIVERSION
AND CHANGE IN PLACE OF USE

WHEREAS License 657 was issued to Sutter Mutual Water Company and was filed with the County Recorder of Sutter County on April 17, 1946, and

WHEREAS the State Water Rights Board has found that the change in points of diversion and change in place of use under said license for which petitions were submitted on December 4, 1952, will not operate to the injury of any other legal user of water, and

WHEREAS the Board has approved and allowed said changes and has directed that an order be issued to describe said changes in accordance with said petitions;

NOW THEREFORE IT IS ORDERED that permission be and the same is hereby granted to change the points of diversion under said License 657 to points of diversion described as follows, to wit:

- (1) FRANK LAMB PUMP - SOUTH FOUR THOUSAND EIGHT HUNDRED NINETEEN (4819) FEET AND WEST SEVEN HUNDRED EIGHTY (780) FEET FROM NE CORNER OF SECTION 26, T14N, R1E, MDB&M, BEING WITHIN $SE\frac{1}{4}$ OF $SE\frac{1}{4}$ OF SAID SECTION 26.
- (2) TISDALE PUMPING PLANT - SOUTH FIFTY-SIX DEGREES THIRTY-FIVE MINUTES WEST ($S56^{\circ} 35' W$) THREE THOUSAND FOUR HUNDRED FORTY-FIVE (3445) FEET FROM $N\frac{1}{4}$ CORNER OF SECTION 36, T14N, R1E, MDB&M, BEING WITHIN $SE\frac{1}{4}$ OF $NE\frac{1}{4}$ OF SECTION 35, T14N, R1E, MDB&M.
- (3) NORTH ONE DEGREE THREE MINUTES FOURTEEN SECONDS EAST ($N1^{\circ} 03' 14'' E$) TWO THOUSAND FIVE HUNDRED EIGHTY-EIGHT AND TWENTY-TWO HUNDREDTHS (2588.22) FEET FROM SW CORNER OF SECTION 7, T13N, R2E, MDB&M, BEING WITHIN $NW\frac{1}{4}$ OF $SW\frac{1}{4}$ OF SAID SECTION 7.

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ORDER

APPLICATION 1772PERMIT 1120LICENSE 657

- (4) STATE RANCH BEND PUMPING PLANT - SOUTH SEVENTY-FOUR DEGREES FORTY-SEVEN MINUTES EAST (S74° 47' E) THREE THOUSAND SIX HUNDRED NINETY-ONE (3691) FEET FROM W $\frac{1}{4}$ CORNER OF SECTION 21, T12N, R2E, MDB&M, BEING WITHIN NW $\frac{1}{4}$ OF SE $\frac{1}{4}$ OF SAID SECTION 21.
- (5) PORTUGUESE BEND PUMPING PLANT - SOUTH TWENTY-FIVE DEGREES TWENTY-TWO MINUTES, FIFTY-SIX SECONDS WEST (S25° 22' 56"W) THREE THOUSAND FIVE HUNDRED SIXTEEN AND EIGHTY-FOUR HUNDREDTHS (3,516.84) FEET FROM THE NE CORNER OF FRACTIONAL SECTION 13, T11N, R2E, MDB&M, BEING WITHIN E $\frac{1}{2}$ OF SAID SECTION 13 AND APPROXIMATELY AT MILE 32.49L OF SACRAMENTO-SAN JOAQUIN WATER SUPERVISION RECORDS.

IT IS FURTHER ORDERED that permission be and the same is hereby granted to change the place of use under said License 657 to a place of use described as follows, to wit:

50,543.755 ACRES WITHIN THE BOUNDARIES OF THE SUTTER MUTUAL WATER COMPANY LANDS BEING WITHIN T11N, R2E, T12N, R2E AND R3E, T13N, R1E, R2E AND R3E, AND T14N, R1E AND R2E, MDB&M.

WITNESS my hand and the seal of the State Water Rights Board of the State of California this 8 th day of January, 1965

L. K. Hill
L. K. Hill
Executive Officer





STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

ORDER

APPLICATION 1772

PERMIT 1120

LICENSE 657

ORDER ALLOWING CHANGE IN PLACE OF USE

Licensee having established to the satisfaction of the State Engineer that the change in place of use under Application 1772, Permit 1120, License 657 for which petition was submitted on November 26, 1947, will not operate to the injury of any other legal user of water, the State Engineer so finds, and

IT IS ORDERED that permission be and the same is hereby granted to change the place of use under said Application 1772, Permit 1120, License 657 to a place of use described as follows to-wit:

39 ACRES WITHIN NE $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 21, T 14 N, R 2 E, MDB&M, ALSO BEING LOT 248 OF NORTH BASIN TRACT. RECORDED IN BOOK 5, PAGE 23, OF SURVEYS, IN THE COUNTY RECORDER'S OFFICE IN SUTTER COUNTY.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 27th day of February, 1948.

Edward Hyatt, State Engineer





STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 1772

PERMIT 1120

LICENSE 657

ORDER ALLOWING CHANGE IN POINT OF DIVERSION

Licensee having established to the satisfaction of the State Engineer that the change in point of diversion under Application 1772, Permit 1120, license 657 for which petition was submitted on March 6, 1946, will not operate to the injury of any other legal user of water, the State Engineer so finds, and

IT IS ORDERED that permission be and the same is hereby granted to change the point of diversion under said Application 1772, Permit 1120, license 657, to a point of diversion described as follows to-wit:

TISDALE PLANT - SOUTH FIFTY-SIX DEGREES, THIRTY-FIVE MINUTES WEST (S. 56° 35' W) THIRTY-FOUR HUNDRED FORTY-FIVE (3445) FEET FROM THE NORTH ONE-QUARTER CORNER OF SECTION 36, T.14 N., R. 1 E., M.D.B. & M., BEING WITHIN THE SE $\frac{1}{4}$ OF NE $\frac{1}{4}$ OF SECTION 35, T. 14 N., R. 1 E., M.D.B. & M.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 8th day of April, 1946.


Edward Hyatt, State Engineer

EC:GG





STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

LICENSE No. 657

PERMIT No. 1120

APPLICATION No. 1772

This is to Certify, That **Sutter Mutual Water Company of** Notice of Assignment (Over)

Robbins, California

ha. made proof to the satisfaction of the Division
of Water Rights of California of a right to the use of the waters of **Sacramento River in Sutter County**

tributary of **Suisun Bay**

for the purpose of **irrigation use**

under Permit No. **1120** of the Division of Water Rights and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Rights and the terms of the said permit; that the priority of the right herein confirmed dates from **April 9, 1920**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **thirty-one hundredths (0.31) cubic foot per second from about May 1st to about October 1st of each season.** Diversions under this license, together with those under existing rights of licensee herein, which are to be directly applied to irrigation use without storage, shall not exceed the rate of one cubic foot per second continuous flow to each eighty acres of irrigated land; provided, however, that in case of rotation the equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located **South twenty degrees fifty minutes West (S. 20° 50' W.) thirteen hundred ninety (1390) feet from the Northeast corner of Section 35, T 14 N, R 1 E, M.D.B. & M. and being within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 35.**

CONFORMING TO ORDER OF 2-27-48

A description of the lands or the place where such water is put to beneficial use is as follows:

10 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 13, T 13 N, R 1 E, M.D.B. & M
15 acres " SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of " " " "
<u>25 acres total</u>

As there is a possibility that there will not be sufficient water in Sacramento River during the latter part of the irrigation season to satisfy all requirements, this license is issued subject to the express condition that the use hereunder may be regulated by the Division of Water Rights during such periods of water scarcity to the end that such use will not interfere with rights under prior applications.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accept such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and provided, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness the signature of the Chief of the DIVISION OF WATER RIGHTS, Department of Public Works of the State of California, and the seal of said department this 31st day of January, 1928



Harold Conkling
Chief of Division of Water Rights, Department of Public Works of the State of California

10-13-66 RECEIVED NOTICE OF ASSIGNMENT TO *Frank and Fay Lamb*

9-18-75 Name of Frank Lamb changed to Estate of Frank Lamb

8-2-76 INT OF ESTATE OF FRANK LAMB ASSED TO CAROL MARY + JAMES LEATHERS, TRUSTEES FOR FRANK LAMB TRUST

8-9-76 Int of Fay Lamb dropped
1-18-82 Ownership Conv to Sutter Mutual Water Co. + Frank Lamb Trust

LICENSE NO. 657

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RIGHTS

LICENSE TO APPROPRIATE WATER

ISSUED TO Sutter Mutual Water Company

DATED January 31, 1928