

L 7064

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

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In the Matter of License 7064 (Application 15856)

**ORDER ADDING POINTS OF REDIVERSION DIRECTING ISSUANCE  
OF SEPARATE LICENSES, AND REVOCATION OF ORIGINAL LICENSE**

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SOURCE: Sacramento River

COUNTY: Sutter County

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**WHEREAS:**

1. License 7064 was issued to William Nicholas on November 6, 1964 pursuant to Application 15856 and was recorded with the County Recorder of Sutter on November 9, 1964.
2. On December 30, 1986, the Sacramento Superior Court issued Stipulated Interlocutory Judgement No. 63832 separating the interests of the beneficiaries for the Estate of William Nicholas.
3. A Petition for Change was received by the State Water Resources Control Board (SWRCB) on March 14, 1988 requesting division of License 7064 between the following beneficiaries for the Estate of William Nicholas: Nicoli G. Nicholas, Maria Nicholas Kelly and Eugenia Nicholas Murdock as directed by the Sutter Court, Stipulated Judgement No. 63832. Additionally the petition requested changes in the points of diversion, rediversion and places of use.
4. The SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on October 15, 1999 and no protests were received.
5. The license terms for the continuing authority and water quality objectives of the SWRCB should be updated to conform to Section 780(a) & (b), Title 23 of the California Code of Regulations.
6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.

**NOW, THEREFORE, IT IS ORDERED THAT Permit 20387 IS AMENDED TO READ AS FOLLOWS:**

1. License 7064 be replaced by License 7064A, 7065B, and 7064C.
2. Superseded License 7064 is hereby revoked upon the issuance of Licenses 7064A to Nicoli G. Nicholas, License 7064B issued to Maria Nicholas Kelly and License 7064C issued to Eugenia Nicholas Murdock.
3. Separate Licenses be issued as follows:

**License 7064A**

**Application 15856A**

Owner: Nicoli G. Nicholas  
4705 T Street  
Sacramento CA 95819

Source: Cross Canal tributary to Sacramento River in Sutter County  
Use: Irrigation and Stockwatering  
Amount: 11.77 cubic feet per second (cfs)  
Maximum Annual Use: 4,272 acre-feet per annum (afa)  
(In conjunction with License 6389D1 not to exceed 5,033 afa)  
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 and instream beneficial uses; and provided further that all terms and conditions protecting instream beneficial uses to be observed.

Season: March 15 to November 15 (irrigation)  
January 1 to December 31 (stockwatering)

Point(s) of  
Diversion:

(A) North 900 feet and West 1,700 feet from the SE corner of projected Section 23, T11N, R3E, MDBM, being within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 406,000 and E 2,113,000.

- (1) South 18° 00' East 1,000 feet from the NW corner of projected Section 24, T11N, R3E, MDB&M, being within the NW¼ of NW¼, of said Section. Also described as California Coordinate System of 1927, Zone 2, N 409,550 and E 2,114,809.

Point(s) of  
Rediversion:

- (2) South 50 feet and West 375 feet from the NE corner of projected Section 23, T11N, R3E, MDB&M, being within the NE¼ of NE¼ of said Section. Also described as California Coordinate System of 1927, Zone 2, N 409,550 and E 2,125, 114.
- (3) North 60° 00' feet and West 800 feet from the SE corner of projected Section 14, T11N, R3E, MDB&M, being within the SE¼ of SE¼ of said Section. Also described as California Coordinate System of 1927, Zone 2, N410,900 and E 2,113,807.
- (4) North 1,420 feet and West 1,175 feet from the SE corner of projected Section 14, T11N, R3E, MDB&M, being within the NE¼ of SE¼ of said Section. Also described as California Coordinate System of 1927, Zone 2, N 414,920 and E 2,113, 325.
- (5) South 1,350 feet and West 300 feet from the NE corner of projected Section 14, T11N, R3E, MDB&M, beginning within the SE¼ of NE¼ of said Section. Also described as California Coordinate System of 1927, Zone 2, N 414,250 and E 2,114,200.

Place of Use:

180.0 acres within projected Section 13, T11N, R3E, MDB&M  
400.0 acres within projected Section 14, T11N, R3E, MDB&M  
173.5 acres within projected Section 23, T11N, R3E, MDB&M  
22.0 acres within projected Section 24, T11N, R4E, MDB&M  
776.0 acres total as shown on map dated March 1988 on file with  
the SWRCB and identified by County APN 34-140-006 and 34-190-007.

**License 7064B**

**Application 15856B**

Owner:

Maria Nicholas Kelly  
6918 - 75th Street So. West  
Tacoma, WA 98498

Source: Cross Canal tributary to Sacramento River in Sutter County  
Use: Irrigation and Stockwatering  
Amount: 11.77 cubic feet per second (cfs)  
Maximum Annual Use: 4,272 acre-feet per annum (afa)  
(In conjunction with License 6389D2 not to exceed 5,033 afa)  
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 and instream beneficial uses and provided further that all terms and conditions protecting instream beneficial uses to be observed.  
Season: March 15 to November 15 (irrigation)  
January 1 to December 31 (stockwatering)

Point(s) of Diversion

- (A) North 900 feet and West 1,750 feet from the SE corner of projected Section 23, T11N, R3E, MDB&M, being within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 406,000 and E 2,113,000.
- (1) South 18° 00' East 1,000 feet from the NW corner of projected Section 24, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 409,550 and E 2,114,809.

Point(s) of Rediversion:

- (7) South 27°00' East 360 feet from the NW of projected Section 13, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 415,279 and E 2,114,663.
- (10) North 2,690 feet and East 1,650 feet from the SW corner of projected Section 1, T11N, R3E, MDB&M, being within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 423,790 and E 2,116,150.

Place of Use: 152.0 acres within projected Section 2, T11N, R3E, MDB&M  
456.0 acres within projected Section 11, T11N, R3E, MDB&M  
218.0 acres within projected Section 14, T11N, R3E, MDB&M  
826.0 acres total as shown on map dated March 1988 on file with  
SWRCB, and identified by County APN 34-130-003,  
34-130-004, 34-140-005, and 34-080-004.

**License 7064C**

**Application 15856C**

Owner: Eugenia Nicholas Murdock  
Route 2, Box 20AB  
Oakley, CA 94561

Source: Cross Canal tributary to Sacramento River in Sutter County

Use: Irrigation

Amount: 11.77 cubic feet per second (cfs)

Maximum Annual

Use:

4,272 acre-feet per annum (afa)

(In conjunction with License 6389D3 not to exceed 5,033 afa)

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 and instream  
beneficial uses; and provided further that all terms and  
conditions protecting instream beneficial uses to be observed.

Season: March 15 to November 15 (irrigation)  
January 1 to December 31 (stockwatering)

Point(s) of  
Diversion:

(A) North 900 feet and West 1,700 feet from the SE corner of  
projected Section 23, T11N, R3E, MDB&M, being within  
the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as  
California Coordinate System of 1927, Zone 2, N 406,000 and  
E 2,113,000.

(1) South 18° 00' East 1,000 feet from the NW corner of projected  
Section 24, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$   
of said Section. Also described as California Coordinate System of 1927,  
Zone 2, N 409,550 and E 2,114,809.

Point(s) of  
Rediversion:

- (6) South 1,100 feet West 50 feet from the NE corner of projected Section 14, T11N, R3E, MDB&M, being within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 414,490 and E 2,114,450.
- (8) North 2,260 feet and West 1,775 feet from the SE corner of projected Section 12, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 417,860 and E 2,112,725.
- (9) North 35°30' East 2,120 feet from the SW corner of projected Section 1, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 422,826 and E 2,115,731.

Place of Use:

118.5 acres within projected Section 1, T11N, R3E, MDB&M  
291.5 acres within projected Section 12, T11N, R3E, MDB&M  
267.0 acres within projected Section 13, T11N, R3E, MDB&M  
747.0 acres total as shown on map dated March 1988 on file with the SWRCB.

4. License 7064A, 7064B, and 7064C shall contain all other terms and conditions presently in License 7064 or updated terms to reflect for compliance with the SWRCB's policy.
5. The continuing authority condition, shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license 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 licensee without unreasonable draft on the source. Licensee 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 licensee 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.

6. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

7. The addition of a condition to the license that read as follows:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stone4s. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by their Chief of the Division of Water Rights.

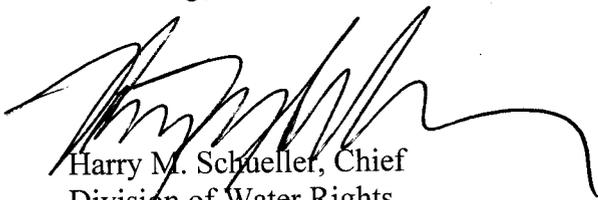
(0380500)

8. The addition of a condition to the license that read as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

Dated: JAN 05 2001



Harry M. Schueler, Chief  
Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD  
License for Diversion and Use of Water

APPLICATION 15856

PERMIT 9963

LICENSE 7064

THIS IS TO CERTIFY, That

William Nicholas  
Ramona Hotel  
6th and J Streets  
Sacramento, California

Notice of Change (Over)

has made proof as of November 27, 1961,  
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of  
(Natomas) Cross Canal in Sutter County

tributary to Sacramento River

for the purpose of irrigation and stockwatering uses  
under Permit 9963 of the State Water Rights Board and that said right to the use of said water has been  
perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the  
terms of the said permit; that the priority of the right herein confirmed dates from April 30, 1954  
and 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-five and three-tenths  
(35.3) cubic feet per second to be diverted from about March 15 to about November 15  
of each year and throughout the remainder of the year as required for stockwatering  
purposes.

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 eighteen degrees east (S18°E) one thousand (1000) feet from NW corner of  
Section 24, T11N, R3E, MDB&M, being within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 24.

The points of re-diversion of such water are located:

- (1) North sixty degrees west (N60°W) eight hundred (800) feet from SE corner of  
Section 14, T11N, R3E, MDB&M, being within SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 14.
- (2) South twenty-three degrees east (S23°E) one thousand four hundred forty (1440)  
feet from NW corner of Section 13, T11N, R3E, MDB&M, being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of  
said Section 13.
- (3) South twenty-seven degrees east (S27°E) three hundred sixty (360) feet from NW  
corner of Section 13, T11N, R3E, MDB&M, being within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said  
Section 13.
- (4) North thirty-five degrees thirty minutes east (N35°30'E) two thousand one hundred  
twenty (2120) feet from SW corner of Section 1, T11N, R3E, MDB&M, being within NW $\frac{1}{4}$   
of SW $\frac{1}{4}$  of said Section 1.

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

2338 acres within Sections 1, 2, 11, 12, 13, 14, 23, and 24, T11N, R3E, MDB&M, as  
shown on map filed with State Water Rights Board.

All rights and privileges under this license including method of diversion, method of use and quantity of water  
diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the  
interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of  
diversion of said water.

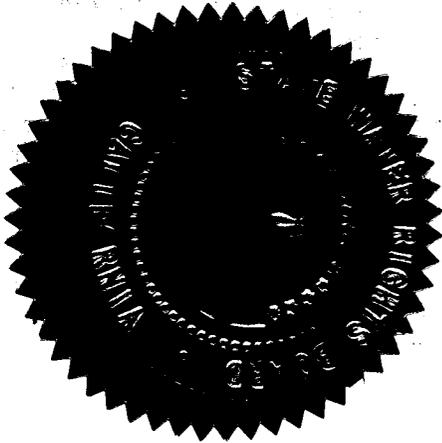
Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time  
to time by the State Water Rights Board.

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

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

- Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.
- Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).
- Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.
- Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.
- Section 1629. Every licensee, if he accepts a license does so 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 license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).
- Section 1630. 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 the license and the works built or constructed for the enjoyment of the rights granted under the license.
- Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: NOV 6 1964



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

12/1/67 RECEIVED NOTICE OF ASSIGNMENT TO *of int. of William Nicholas*  
*Est. of William Nicholas*  
5-19-82 Assign to William Nicholas Trust

LICENSE 7064

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

LICENSE  
TO APPROPRIATE WATER

ISSUED TO William Nicholas

DATED NOV 6 1964

47689 8-61 3M © SFO

APR 17 '62 A.A.C.