



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

Amended License for Diversion and Use of Water

APPLICATION 19749B

PERMIT 13000

LICENSE 8012B

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THIS IS TO CERTIFY, That

James Tarke, Claire Tarke, & Shelly Tarke
3540 West Butte Road
Sutter, CA 95982

Have the right to use waters of (1) Poodle Creek and (2) East Borrow Pit of the Sutter Bypass in Sutter County tributary to (1) East Borrow Pit of the Sutter Bypass thence Sacramento River, and (2) Sacramento River

for the following purpose: **Irrigation Use**

Amended License 8012A supersedes the license originally issued on July 14, 1982, which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of Permit 13000. The priority of this right dates from September 23, 1960. Proof of maximum beneficial use of water pursuant to Application 19749 was made as of October 3, 1966 (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed 0.56 cubic feet per second by direct diversion to be diverted from about April 1 to about October 31 of each year. The maximum amount diverted under this license shall not exceed 198.4 acre-feet per year.

The equivalent of such continuous flow allowance for any thirty-day period maybe diverted in a shorter time if there is no interference with other vested rights.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION IS LOCATED:

- 1) South 47° 23'24" East 7,041.42 feet from the NW corner of projected Section 13, T15N, R1E, MDB&M, being within the SE¼ of SE¼ of said Section (California Coordinate: Zone 2 North 538,350 feet, East 2,056,900 feet)
- 2) South 10° 28'47" West 5,363.23 feet from the NE corner of projected Section 14, T15N, R1E, MDB&M, being within the SE¼ of SE¼ of said Section (California Coordinate: Zone 2, North 537,800 feet, East 2,050,800 feet)

POINT OF REDIVERSION IS LOCATED:

- 5) South 59° 10'23" East 5,701.71 feet from the NW corner of projected Section 13, T15N, R1E, MDB&M, being within the SE¼ of NE¼ of said Section (California Coordinate: Zone 2, North 542,450 feet, East 2,056,950 feet)

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Irrigation of 35 acres with the NE¼ of SE¼; 8 acres within SE¼ of SE¼; and 2 acres of within NW¼ of SE¼, all within projected Section 13, T15N, R1E, MDB&M (APN: 013-014-024).

This license shall not be construed as conferring upon the licensee right of access to the point of diversion on the East Borrow Pit of the Sutter Bypass.

Water shall not be diverted from the East Borrow Pit of Sutter Bypass until the capacity of the conduit connecting Poodle Creek and East Borrow Pit has been increased in accordance with the plans of the Department of Water Resources, and water shall not be diverted from the East Borrow Pit of Sutter Bypass except: (A) when the conduits between East Borrow Pit and Poodle Creek are open; and (B) when the difference in the water levels in Poodle Creek and East Borrow Pit is equal to or less than six inches. The water level in Poodle Creek and East Borrow Pit shall be measured at the authorized points of diversion.

Point of diversion (2) shall be deleted if the licensee fails to commence diverting water at said point within three years from the date the capacity of the conduits linking East Borrow Pit with Poodle Creek has been increased in accordance with the plans of the Department of Water Resources or if, upon notion of any landowner adjacent to Poodle Creek or, upon the Board's own motion the Board finds after notice to all affected parties and hearing unless waived, that the conveyance of water I Poodle Creek by the licensee injures landowners adjacent to Poodle Creek by seepage or otherwise. The authority of the Board to delete said point of diversion shall terminate upon expiration of a period of three years from the date the licensee commenced diverting water at the point of diversion (2), unless sooner terminated, or extended upon a finding of good cause by the Board.

Licensee shall file with the Board a statement that they have commenced diverting water at point of diversion (2) within 30 days of such commencement.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB 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 SWRCB 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.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, 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 SWRCB 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 SWRCB may be exercised by imposing specific requirements over and above those contained in this license 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 license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB 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 SWRCB 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 SWRCB 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.

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 1531 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.

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

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 the 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 SWRCB.

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 (of the Water Code) 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: **OCT 13 2000**

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights