

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 3165 (APPLICATION 27)  
OF RECLAMATION DISTRICT NO. 1004  
PETITION FOR TEMPORARY CHANGE  
INVOLVING THE TRANSFER OF 7,175 ACRE-FEET OF WATER**

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SOURCE: Sacramento River

COUNTY: Colusa

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BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

**1.0 SUBSTANCE OF PETITION**

**1.1 Description of the Transfer**

On May 3, 2013, Reclamation District No. 1004 (RD 1004 or Petitioner) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), a Petition for Temporary Change under Water Code section 1725, et seq.

RD 1004 proposes to transfer up to 7,175 acre-feet (af) of water, which would be made available by groundwater substitution, to the San Luis and Delta-Mendota Water Authority (Authority) as an additional water supply for the purpose of irrigation. In order to facilitate the transfer, RD 1004 has requested the following temporary changes to License 3165 (Application 27): 1) add the Central Valley Project's (CVP) Jones Pumping Plant and the State Water Project's Harvey O. Banks Pumping Plant (herein referred to collectively as Delta Pumps) as points of diversion; and 2) add the service area of the CVP as an additional place of use under License 3165.

RD 1004 states that in the absence of the proposed temporary change, the 7,175 af of water would be diverted from the Sacramento River pursuant to License 3165 and in accordance with RD 1004's Sacramento River Settlement Contract with the United States Bureau of Reclamation (Reclamation).

Temporary changes under Water Code section 1725 may be effective for a period of up to one year from the date of approval.

**1.2 Groundwater Substitution**

RD 1004 proposes to transfer surface water available under License 3165 to the Authority by groundwater substitution. Groundwater substitution involves the use of groundwater pumped to produce crops within RD 1004's place of use for the equivalent amount of water that would be diverted, less assumed losses, at the proposed points of diversion. The petition states that the transfer would be consistent with the Draft Technical Information for Preparing Water Transfer Proposals, dated February 2013, published by Department of Water Resources (DWR) and Reclamation. Only wells approved by DWR and Reclamation will be used for the proposed water transfer. Petitioner has developed groundwater monitoring, reporting, and mitigation plans to ensure the proposed transfer does not result in adverse impacts to the groundwater basin or third parties.



RD 1004 has determined that its proposed transfer will not create, or contribute to, conditions of long-term overdraft in the affected groundwater basin pursuant to subdivision (b) of Water Code section 1745.10. This determination is based, in part, on groundwater elevation data for DWR's Monitoring Well No. 18N01W22L001M, which is located near the northern boundary of RD 1004. The data show that during the period from 1953 through 2011, groundwater elevations have fluctuated seasonally each year with greater fluctuations in dry periods. RD 1004 has indicated that, overall, the data show that groundwater elevations have remained relatively stable during the 59-year period. RD 1004 has also indicated that DWR's Monitoring Well No. 16N01W20F001M, located near the southern boundary of RD 1004, shows groundwater elevations fluctuating seasonally over the past 20 years, recovering annually near or at historical seasonal high elevations. In addition to the two monitoring wells listed above, two multi-completion continuous groundwater monitoring wells (DWR Well Nos. 17N01W10A001M to 004M and 17N01W27A001M to 003M) were installed in 2010 and 2011, respectively, near the center of RD 1004 in order to further assist in documenting groundwater elevations. Monitoring results from these two wells also indicate that groundwater elevations fluctuate seasonally each year.

RD 1004's petition indicates that groundwater monitoring from RD 1004's past groundwater substitution transfer as part of DWR's 2009 Drought Water Bank, shows that groundwater levels in the groundwater production wells participating in the transfer returned to pre-pumping levels within approximately three months of cessation of pumping for the transfer. RD 1004 has noted that the 2009 transfer was similar in scope (5,501 af) to the currently proposed transfer of 7,175 af.

DWR and Reclamation well criteria used to evaluate groundwater substitution transfers are intended to minimize impacts to streamflow during balanced conditions and potential impacts to the SWP and CVP. DWR and Reclamation have estimated streamflow impacts resulting from RD 1004's pumping to replace transferred water to be 12%. RD 1004 will only transfer 88% of the total quantity pumped in exchange for the surface water released to account for those impacts. The conditions identified in section 3.3 require compliance with DWR and Reclamation requirements for well construction, location and monitoring, as well as the application of the streamflow depletion factor, which are intended to ensure that the groundwater substitution transfer will not unreasonably affect the surface streamflow.

## **2.0 BACKGROUND**

### **2.1 Substance of RD 1004's License**

License 3165 authorizes the direct diversion of 166 cubic feet per second (cfs) of water from the Sacramento River between April 1 and October 15 of each year for irrigation purposes. The authorized points of diversion for License 3165 are located on the Sacramento River near Butte Slough Road. The authorized place of use consists of 22,838 acres, with the maximum area irrigated in any one year not to exceed 7,000 acres.

### **2.2 Proposed Temporary Changes**

The proposed transfer would temporarily add the Delta Pumps as points of diversion under License 3165. The service area of the CVP (as shown on Map 214-208-12581 on file with the Division of under Application 5626) would be temporarily added to the place of use of License 3165.

### **2.3 Governor's 2013 Executive Order to Streamline Approvals for Water Transfers**

On May 20, 2013, Governor Edmund G. Brown Jr. issued Executive Order B-21-13 to streamline approvals for water transfers to address the dry conditions and water delivery limitations in 2013 to protect California's agriculture. The Governor's Order directs the State Water Board and DWR to expedite the review and processing of temporary transfers for 2013 (in accordance with the Water Code) and to assist water transfer proponents and suppliers, as necessary, provided that the transfers will not harm other legal users of water and will not unreasonably affect fish, wildlife, or



other instream beneficial uses. The State Water Board and DWR were also directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California.

### **3.0 PUBLIC NOTICE AND COMMENTS ON THE PROPOSED TRANSFER**

Public notice of the petition for temporary change was provided on May 8, 2013, on the Division's internet site, via mail to interested parties, and by publication in the Colusa County Sun-Herald newspaper on May 11, 2013. The State Water Board received timely comments regarding the proposed temporary changes from the following commenters: (1) a joint comment by California Water Impact Network (C-WIN), California Sportfishing Protection Alliance (CSPA), and AquAlliance; (2) Richard Morat; (3) DWR; (4) Reclamation; and (5) Jane Osborne, Ann Byrd, and Furlan Joint Venture (Joint Commenters). The State Water Board received late comments from Department of Fish and Wildlife (DFW). The comments received and the State Water Board's responses to comments are briefly summarized below.

#### **3.1 Joint Comments by C-WIN, CSPA, and AquAlliance (Environmental Commenters)**

On June 3, 2013, the environmental commenters indicated their concerns regarding the transfer proposal. The concerns extend beyond the scope of the current transfer, and encompass all pending 2013 water transfers being processed by the State Water Board. To expedite transfer processing, the concerns are not repeated herein; however, the State Water Board response letter, dated June 27, 2013, is incorporated by reference. The response letter details the issues raised by the environmental commenters. RD 1004 also provided a June 14, 2013 response to the comments as discussed below.

##### State Water Board Response:

The State Water Board response letter identifies a need to evaluate the following issues in the present order: (a) whether there is a change in return flow associated solely with the transfer, and (b) whether the transfer would only involve the amount of water that would have been consumptively used or stored by the licensee in the absence of the proposed temporary change or conserved pursuant to Water Code section 1011.

In addition, the response letter indicates that use of the Delta Pumps for transfer purposes should be conditioned on compliance by DWR and Reclamation with Decision 1641, all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

The objection is addressed upon a finding that: (a) no change in return flows is occurring, and (b) the transfer only involves water that would have been consumptively used or stored. Approval of the petition is also contingent on inclusion of condition 6 of this order. The required evaluations are found in Section 5 of this Order.

##### RD 1004 Response:

On June 13, 2013, RD 1004 submitted a response to the environmental commenters. According to the response, RD 1004 informed the counties of Glenn and Colusa on April 18, 2013 of its proposed transfer. Based on a request from Glenn County's Technical Advisory Committee, RD 1004 will (1) record quantities of groundwater pumped from groundwater wells located within Glenn County on a weekly basis and provide copies of those quantities to the county; and (2) will contact the Glenn County Water Advisory Committee for any disputes in the county relative to the proposed water transfer.

RD 1004 has also consulted with the Colusa County Groundwater Commission (Commission) and has responded to the county's request and provided the county with the following: a) acknowledgement that the water transfer is for agricultural use; b) submittal of sampling data taken to support groundwater basin recharge to the Colusa County Department of Agriculture; and c) identification of a contact person for third parties that may be affected by groundwater pumping. RD 1004 indicated that it is awaiting the Commission's approval of the above.

### **3.2 Comments by Richard Morat**

On May 8, 2013, Richard Morat commented on the proposed transfer. The Morat comments were similar to, but not as extensive as, the environmental commenters concerns.

#### State Water Board Response:

The State Water Board response letter, dated June 27, 2013, refers Mr. Morat to the more extensive responses provided to the environmental commenters. The information identified in section 3.1 also addresses the Morat comment letter.

### **3.3 Comments by Reclamation**

By letter dated June 5, 2013, Reclamation commented on the Petitioner's water transfer proposal. Reclamation expressed concern regarding protection of its water rights and operation of the Jones Pumping Plant and requested that the Division include the following conditions in any order issued pursuant to the petition as follows:

- Only wells approved by Reclamation and DWR for suitability and acceptability may be used for groundwater substitution.
- The amount of transferable water credited to Petitioner's groundwater substitution water transfer operation is subject to the determination of Reclamation and DWR.
- Before commencing the groundwater substitution operation, Petitioner shall submit a Monitoring Program Plan and Mitigation Program Plan to DWR and Reclamation for evaluation and prior approval.
- Transferable water may be credited only during balanced conditions in the Sacramento-San Joaquin River Delta.

#### State Water Board Response:

In order to avoid injury to Reclamation's water rights, the transfer is conditioned based on the criteria listed above.

### **3.4 Comments by DWR**

On June 6, 2013, DWR objected to the proposed transfer based on potential injury to its water rights. DWR indicated that staff was reviewing the water transfer proposal to determine if it has the necessary information to expeditiously make its required findings. DWR indicated that the concerns would be satisfied with the inclusion of a term in any order approving the transfer requiring that the well criteria and technical information, including streamflow depletion factor and the monitoring and mitigation plans, are acceptable to DWR.

#### State Water Board Response:

In order to avoid injury to DWR's water rights, the transfer is conditioned based on the proposed criteria listed in section 3.3 of this Order.



### **3.5 Joint Comments by Jane Osborne, Ann Byrd, and Furlan Joint Venture (Joint Commenters)**

On June 4, 2013, the Joint Commenters indicated their concerns on the proposed water transfer. The joint commenters were concerned that this order would authorize the transfers to take place every year.

#### **State Water Board Response:**

Temporary changes under Water Code section 1725 may be effective for a period of up to one year from the date of approval. In order to transfer water in successive years, the petitioner would have to file another petition and the Division would have to approve that petition.

### **3.6 Comments of DFW**

By letter dated June 27, 2013 DFW provided comments. DFW's comments were received after the 30-day deadline.

#### **State Water Board Response:**

The State Water Board is not required to evaluate or take into consideration comments that were not timely filed. Moreover, DFW has not presented any information to demonstrate that this particular transfer will have an unreasonable impact on fish and wildlife. Instead, the DFW comments express concern that there will be a cumulative impact of this and other transfers. That issue is addressed in the Division's June 27, 2013 response to the environmental commenters.

## **4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Petitioner filed the petitions for temporary transfer of water pursuant to Water Code section 1725, et seq. Water Code section 1729 exempts temporary changes involving a transfer of water from the requirements of CEQA. (Pub. Resources Code, § 21000, et seq.) The State Water Board will issue a Notice of Exemption for the transfer.

In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The State Water Board may approve a temporary change due to a transfer of water only if it determines that the proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) The independent evaluation of impacts to public trust resources was conducted concurrent with the Water Code Section 1727 evaluation.

## **5.0 REQUIRED FINDINGS OF FACT**

### **5.1 Transfer Only Involves Water That Would Have Been Consumptively Used or Stored**

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code section 1725 defines "consumptively used" to mean "the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of



direct diversion." The water proposed for transfer consists of surface water made available through increased groundwater pumping. To the extent that the additional groundwater pumped does not affect streamflow, this water represents water which would not be available for use in the downstream water supply. DWR and Reclamation have reviewed the proposed groundwater pumping and determined that 12% of the additional groundwater pumping will affect streamflow. This Order limits the amount of water available for transfer to 88% of the groundwater pumped.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would be consumptively used in the absence of the proposed temporary change.

## **5.2 No Injury to Other Legal Users of Water**

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code §1727, subd. (b)(1).)

RD 1004 may not transfer water through the Delta Pumps prior to obtaining approval from DWR and Reclamation for its groundwater substitution operation. Compliance with well construction, location, and monitoring requirements, in addition to application of the streamflow depletion factor, is intended to ensure that the groundwater substitution transfer will not unreasonably affect the surface stream. DWR and Reclamation have reviewed the proposed transfer and determined that, with inclusion of the 12% depletion factor described in section 1.2 of this Order, the SWP and CVP will not be injured by impacts resulting from the additional groundwater pumping associated with the transfer. Under this operating scenario, the transfer will not result in increased diversion of stream flow or reduction in return flows. Since there will be no increase in diversion of stream flow, there will be no injury to other legal users of water.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed transfer will not injure any legal user of the water. I also find that the transfer of surface water that is replaced with groundwater pursuant to this Order meets the requirement of Water Code section 1745.10 subdivision (a). That section requires that the groundwater substitution transfer be (a) consistent with a groundwater management plan adopted pursuant to state law for the affected area or (b) approved by the water supplier from whose service area the water is to be transferred and that water supplier, if a groundwater management plan has not been adopted, determines that the transfer will not create, or contribute to, conditions of long-term overdraft in the affected groundwater basin. As indicated in section 1.2 of this Order, Petitioner has determined that groundwater use for the transfer would not create or contribute to conditions of long-term overdraft in the affected groundwater basin under part (b).

## **5.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses**

Before approving a temporary change due to a transfer of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).) The petition states that the flow downstream of the Petitioner's current point of diversion may increase by up to 7,175 af during the period of the transfer. The increased flows may provide benefits to fisheries, wildlife, or other instream beneficial uses.

Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the operators with the objectives set forth in Tables 1, 2 and 3 on pages 181 to 187 of Decision 1641 (D-1641), including compliance with the various plans required under D-1641. Diversion at these facilities pursuant to this Order is also subject to compliance by the operators with all applicable biological opinions and any court orders applicable to these operations.



In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(2) that the proposed transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.

## **6.0 STATE WATER BOARD DELEGATION OF AUTHORITY**

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2012-0029.

## **7.0 CONCLUSIONS**

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727; and therefore I find as follows:

I conclude that, based on the available evidence:

1. The proposed temporary changes will not injure any legal user of the water.
2. The proposed temporary changes will not unreasonably affect fish, wildlife, or other instream beneficial uses.
3. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
4. An increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) will be performed in compliance with Water Code section 1745.10.

## **ORDER**

**NOW, THEREFORE, IT IS ORDERED** that the petition filed for transfer of 7,175 af of water is approved.

All existing terms and conditions of License 3165 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on the date of this Order and continuing for one year.
2. The maximum transfer quantity authorized under License 3165 is 7,175 af.
3. The Petitioner shall reduce its diversion rate at the original point of diversion authorized under License 3165 by an amount equal to the rate of additional groundwater pumped in order to make water available for transfer pursuant to this Order (both measured as a daily average). The amount of water transferred pursuant to this Order shall not exceed 88% of the rate of additional groundwater pumping, and shall in no case exceed 166 cfs.
4. The place of use under License 3165 is temporarily expanded to include the service area of the CVP in order to facilitate the temporary water transfer to the Authority. The service area of the CVP is shown on Map 214-208-12581 on file with the Division under Application 5626.
5. The Delta Pumps are temporarily added as authorized points of diversion under License 3165.

6. Diversion of water at the Delta Pumps is subject to compliance by the operators with the objectives currently required of DWR and Reclamation set forth in Tables 1,2, and 3 on pages 181 to 187 of State Water Board Revised Decision 1641 (D-1641), or any future State Water Board order or decision implementing Bay-Delta water quality objectives at those points of diversion, including compliance with the various plans required under D-1641 as prerequisites for the use of the pumping plants by DWR and Reclamation. Diversion of water is also subject to compliance by DWR and Reclamation with all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
7. Water may not be transferred through the Delta Pumps until Petitioner has obtained the approval of Reclamation and DWR for its groundwater substitution operation. Such approval shall include the following elements:
  - a. Only wells approved by Reclamation and DWR for suitability and acceptability may be used for groundwater substitution.
  - b. The amount of transferable water credited to Petitioner's groundwater substitution water transfer operation is subject to the determination of Reclamation and DWR.
  - c. Before commencing the groundwater substitution operation, Petitioner shall submit a Monitoring Program Plan and Mitigation Program Plan to DWR and Reclamation for evaluation and prior approval.
  - d. Transferable water may be credited only during balanced conditions in the Sacramento-San Joaquin River Delta.

Documentation that an acceptable groundwater substitution operation has been approved by Reclamation and DWR shall be submitted to the Division within 15 days of the date such approval is granted by those entities.

8. During the period of transfer, Petitioner shall comply with applicable terms and conditions imposed by other regulatory agencies. This Order shall not be construed as authorizing the violation of any agreement entered into by the Petitioner.
9. Within 90 days of the completion of the transfer, but no later than October 1, 2014, Licensee shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:
  - a. General locations where the transferred water was used;
  - b. The daily average rate water is made available for transfer pursuant to this Order;
  - c. The daily average diversion rate for water diverted pursuant to License 3165 during the transfer period;
  - d. The average daily streamflow measured at the nearest representative gaging station on the Sacramento River;
  - e. The daily average pumping rate of groundwater pumped by Licensee in excess of that which would have been pumped in the absence of this transfer; and
  - f. Groundwater elevations within the vicinity of RD 1004 prior to the proposed transfer.

Licensee shall also develop and submit to the Deputy Director for Water Rights, by July 1 of each year following 2014, a map defining the groundwater elevations within the vicinity of RD 1004, until such time as these elevations correspond to pre-transfer levels.

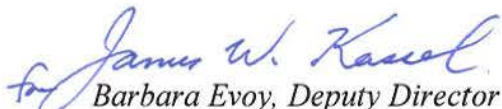


10. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water 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 State Water Board also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

11. This Order 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 temporary transfer, the Petitioner shall obtain authorization for an incidental take permit prior to construction or operation. The Petitioner shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.
12. I reserve jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

  
Barbara Evoy, Deputy Director  
Division of Water Rights

Dated: JUL 01 2013



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 27 Permit 31 License 3165

**ORDER APPROVING CHANGE TO THE POINT OF DIVERSION, ADDING A  
ENDANGERED SPECIES TERM, AND AMENDING THE LICENSE**

**WHEREAS:**

1. License 3165 was issued to Reclamation District No. 1004 and was filed with the County Recorder of Sutter, Colusa, and Glen on May 3, 1951.
2. On February 5, 1998, petition to change the Point of Diversion was filed with the State Water Resources Control Board (SWRCB) requesting the relocation of its northern most pumping plant on the Sacramento River. The SWRCB has determined that good cause for such change has been shown.
3. The SWRCB has determined that the petition for change does not constitute the initiation of new right nor operates to the injury of any other lawful user of water.
4. Fish or wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The points of diversion under this license shall be as follows:
  - 1) North 680 feet and West 880 feet from SE corner of projected Section 18, T18N, R2W, MDB&M, being within SE¼ of SE¼ of said Section 18 (California Coordinate System, Zone 2 = North 634,100 feet and East 1,998,325 feet).
  - 2) South 1,300 feet and West 1,500 feet from NE corner of Section 29, T16N, R1W, MDB&M, being within NW¼ of SE¼ of said Section 29 (California Coordinate System, Zone 2 = North 563,100 feet and East 2,002,750 feet).
  - 3) South 80° 31' 47" East, 1,292 feet from center of Section 34, T16N, R1W, MDB&M, being within NE¼ of SE¼ of said Section 34 (California Coordinate System, Zone 2 = North 556,150 feet and East 2,013,450 feet)
2. The addition of an endangered species term that reads 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

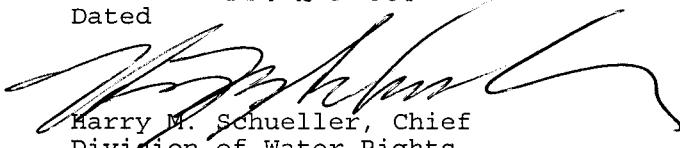


Application 27 Permit 31 License 3165

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 an incidental take permit prior to operation. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license. (0000014)

**OCT 20 1998**

Dated

  
Harry M. Schueller, Chief  
Division of Water Rights



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 27 Permit 31 License 3165

**ORDER APPROVING CHANGES TO PLACE OF USE AND AMENDING THE LICENSE**

**WHEREAS:**

1. License 3165 was issued to Reclamation District No. 1004 and was filed with the County Recorder of Sutter, Colusa and Glenn Counties on May 3, 1951.
2. On February 5, 1998, a petition to change the Point of Diversion was filed with the State Water Resources Control Board (SWRCB) requesting the relocation of its northern most pumping plant from the Sacramento River. The SWRCB has determined that good cause for such change has been shown.
3. The SWRCB has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

**NOW, THEREFORE, IT IS ORDERED THAT:**

The points of diversion under this license shall be as follows:

- 1) North 680 feet and West 880 feet from SE corner of projected Section 18, T18N, R2W, MDB&M, being within SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 18 (California Coordinate System, Zone 2 = North 634,100 feet and East 1,998,325 feet).
- 2) South 1,300 feet and West 1,500 feet from NE corner of Section 29, T16N, R1W, MDB&M, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 29 (California Coordinate System, Zone 2 = North 563,100 feet and East 2,002,750 feet).
- 3) South 80°31'47" East, 1,292 feet from center of Section 34, T16N, R1W, MDB&M, being within NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 34. (California Coordinate System, Zone 2 = North 556,150 feet and East 2,013,450 feet).

Dated: **SEPTEMBER 14 1998**

  
Harry M. Schueller, Chief  
Division of Water Rights

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

Application 27 Permit 31 License 3165

**ORDER APPROVING CHANGES TO PLACE OF USE AND AMENDING THE  
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**WHEREAS:**

1. License 3165 was issued to Reclamation District No. 1004 and was filed with the County Recorder of Sutter, Colusa and Glenn Counties on May 3, 1951.
2. A petition to change the place of use has been filed with the State Water Resources Control Board (SWRCB) requesting an increase of the gross acreage of the place of use by 1,845 from 20,993 acres to 22,838 acres. The SWRCB has determined that good cause for such change has been shown.
3. The SWRCB has determined that the petition for changes does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The place of use under License 3165 shall be amended as follows:  
A net irrigable area of 7,000 acres within the 22,838 acre gross place of use as shown on the map dated December 22, 1997 on file with the SWRCB.
2. License 3165 shall be amended to include the following condition:  
The total quantity of water diverted under License 3165 shall not exceed 56,000 acre-feet per year.

Dated: **JANUARY 30 1998**

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



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

ORDER

APPLICATION 27

PERMIT 31

LICENSE 3165

ORDER ALLOWING CHANGE IN POINT OF DIVERSION

WHEREAS:

1. License 3165 was issued to Reclamation District No. 1004 and was filed with the County Recorder of Sutter, Colusa and Glenn Counties on May 3, 1951.
2. An order allowing change in the points of diversion was granted on March 31, 1952 and has been filed with the County Recorder of Sutter and Glenn Counties on April 1, 1952 and Colusa County on April 2, 1952.
3. A petition for change in point of diversion, has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
4. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

The points of diversion under this license shall be as follows:

- 1) North 65°43' West, 7,041.5 feet from SE corner of Section 17, T18N, R1W, MDB&M, being within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 18, T18N, R1W, MDB&M.
- 2) South 1,300 feet and West 1,500 feet from NE corner of Section 29, T16N, R1W, MDB&M, being within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 29.
- 3) South 80°31'47" East, 1,292 feet from center of Section 34, T16N, R1W, MDB&M, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 34.

Dated: JANUARY 8 1986

*Lloyd D. Johnson*  
Lloyd D. Johnson, Interim Chief  
Division of Water Rights

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

ORDER

APPLICATION 27

PERMIT 31

LICENSE 3165

ORDER ALLOWING CHANGE IN POINT OF DIVERSION

WHEREAS:

1. License 27 was issued to Reclamation District No. 1004 and was filed with the County Recorder of Sutter, Colusa and Glenn Counties on May 3, 1951.
2. An order allowing change in the points of diversion was granted on March 31, 1952 and has been filed with the County Recorder of Sutter and Glenn Counties on April 1, 1952 and Colusa County on April 2, 1952.
3. A petition for change in point of diversion, has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
4. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

The points of diversion under this license shall be as follows:

- 1) North 65°43' West, 7,041.5 feet from SE corner of Section 17, T18N, R1W, MDB&M, being within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 18, T18N, R1W, MDB&M.
- 2) South 1,300 feet and West 1,500 feet from NE corner of Section 29, T16N, R1W, MDB&M, being within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 29.
- 3) South 80°31'47" East, 1,292 feet from center of Section 34, T16N, R1W, MDB&M, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 34.

Dated: OCTOBER 29 1985

*Lloyd D. Johnson*  
Lloyd D. Johnson, Chief  
Division of Water Rights

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

ORDER

APPLICATION 27

PERMIT 31

LICENSE 3165

ORDER ALLOWING CHANGE IN POINTS OF DIVERSION

Licensee having established to the satisfaction of the State Engineer that the change in points of diversion under Application 27, Permit 31, License 3165 for which petition was submitted on February 18, 1952 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 points of diversion under said Application 27, Permit 31, License 3165 to points of diversion described as follows, to wit:

- (1) NORTH SIXTY-FIVE DEGREES FORTY-THREE MINUTES WEST ( $N 65^{\circ} 43' W$ ) SEVEN THOUSAND FORTY-ONE AND FIVE TENTHS (7041.5) FEET FROM SE CORNER OF SECTION 17, T 18 N, R 1 W, M.D.B.&M., BEING WITHIN  $SE\frac{1}{4}$  OF  $NE\frac{1}{4}$  OF SECTION 18, T 18 N, R 1 W, M.D.B.&M.
- (2) SOUTH ELEVEN DEGREES NINE MINUTES WEST ( $S 11^{\circ} 09' W$ ) THREE THOUSAND THREE HUNDRED NINETY-FOUR (3394) FEET FROM CENTER OF SECTION 20, T 16 N, R 1 W, M.D.B.&M., BEING WITHIN  $NE\frac{1}{4}$  OF  $NW\frac{1}{4}$  OF SECTION 29, T 16 N, R 1 W, M.D.B.&M.
- (3) SOUTH EIGHTY DEGREES THIRTY-ONE MINUTES FORTY-SEVEN SECONDS EAST ( $S 80^{\circ} 31' 47'' E$ ) ONE THOUSAND TWO HUNDRED NINETY-TWO (1292) FEET FROM CENTER OF SECTION 34, T 16 N, R 1 W, M.D.B.&M., BEING WITHIN  $NW\frac{1}{4}$  OF  $SE\frac{1}{4}$  OF SAID SECTION 34.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 31st day of March 1952.



*A. D. Edmonston*  
A. D. Edmonston  
State Engineer

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

## License for Diversion and Use of Water

APPLICATION 27

PERMIT 31

LICENSE 3165

THIS IS TO CERTIFY, That **Reclamation District No. 1004**  
**c/o Stephen W. Downey, Attorney at Law**  
**Capital National Bank Building, Sacramento, California**  
has made proof as of **May 26, 1950,**

(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of  
**Sacramento River in Glenn and Colusa Counties**

tributary to **Suisun Bay**

for the purpose of **irrigation use**

under Permit **31** of the Department of Public Works 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 Department of Public Works  
and the terms of the said permit; that the priority of the right herein confirmed dates from **April 2, 1915; 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 **one hundred sixty-six (166)**  
**cubic feet per second to be diverted from about April 1 to about October 15 of**  
**each year.**

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 points of diversion of such water are located as follows: *Amended by order of 3-31-52*

(1) North sixty-five degrees forty-three minutes West (N 65° 43' W) seven  
thousand forty-one and five tenths (7041.5) feet from SE corner of Section 17,  
T 18 N, R 1 W, M.D.B.&M., being within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 18, T 18 N, R 1 W,  
M.D.B.&M.

(2) South eleven degrees nine minutes West (S 11° 09' W) three thousand  
three hundred ninety-four (3394) feet from center of Section 20, T 16 N, R 1 W,  
M.D.B.&M., being within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 29, T 16 N, R 1 W, M.D.B.&M.

A description of the lands or the place where such water is put to beneficial use is as follows: A net irrigable  
area of 20,993 acres within the boundaries of Reclamation District No. 1004, being  
within T 16, 17 and 18 N, R 1 W, and T 17 N, R 1 E, M.D.B.&M., as shown on map filed  
with State Engineer. The maximum area irrigated in any one year shall not exceed  
7000 acres.

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 Department acting through the State Engineer 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 Engineer.

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 Department.

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 can not 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.

Witness my hand and the seal of the Department of Public  
Works of the State of California, this 30th  
day of April, 19 51

*A. W. Edmonston*  
A. W. EDMONSTON  
State Engineer

LICENSE 3165

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

LICENSE  
TO APPROPRIATE WATER

ISSUED TO Reclamation District No. 1004

DATED APR 30 1951

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