

4.8 Surface Water Diverter Compliance

List the surface water diverters that will receive funding from the proposed grant. If there are none, so indicate. Provide agency/organization name, a contact phone number and e-mail address. For the listed surface water diverters, state whether they have submitted to the SWRCB surface water diversion reports in compliance with requirements outline in Part 5.1 (commencing with §5100) of the Division 2 of the CWC. If a surface water diverter has not, explain and provide the anticipated date for meeting the requirements. The following must be submitted by the applicant to fulfill this requirement:

- *Submittal of list of surface water diverters*
- *Agency/organization name(s)*
- *Contact phone number(s) and e-mail address(es)*
- *SWRCB verification documentation*

City of Lindsay is a surface water diverter that will receive funding from this proposed grant. The City became a Friant Division CVP contractor to increase its water supply reliability to supplement groundwater pumping. The Bureau of Reclamation (BOR) holds the surface water diversion compliance with the State Water Resources Control Board (SWRCB) for its contractors. The documentation provided for SWRCB verification is a copy of the contract between the BOR and SWRCB for surface water diversion from Millerton Lake the Bureau executed on behalf of its contractors (see **Attachment 1 – Appendix H**). Contact information for the City of Lindsay is provided below.

- Mike Camarena, City Services Department & Building Inspection Director
 - Phone Number: (559) 562-2511
 - E-mail: engineering@lindsay.ca.us

**ATTACHMENT 1 – AUTHORIZATION AND ELIGIBILITY
REQUIREMENTS**

APPENDIX H

**Bureau of Reclamation Contract with SWRCB
for Surface Water Diversion**



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 25882
Page 1 of 4

PERMIT 18302

LICENSE 13286

THIS IS TO CERTIFY, That

Friant Power Authority
P.O. Box 279
Delano, CA 93216

The Deputy Director for Water Rights finds that the State Water Resources Control Board (State Water Board) and/or the Licensee have met the following requirements for Change Petition approval: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) demonstrated that the requirements of the California Environmental Quality Act (CEQA) have been met or that the project is exempt from CEQA.

Additionally, the State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audobon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346].)

The amended license is being issued in accordance with the redelegations of authority (Resolution No. 2007-0057.) Therefore, an amended license on **Application 25882**, filed on **December 6, 1978**, has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this amended license.

Licensee has the right to the use of the waters of **San Joaquin River** in **Fresno County and Madera County**

tributary to **Suisun Bay**

for the purpose of **Power use**

Amended License 13286 supersedes the license originally issued on **July 21, 1997**, which was perfected in accordance with the laws of California, the Regulations of the State Water Board, or its predecessor, and the terms of **Permit 18302**. The priority of this right dates from **December 6, 1978**. Proof of maximum beneficial use of water under this license was made as of **October 17, 1996** (the date of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **four thousand three hundred forty-five (4,345) cubic feet per second to be diverted from January 1 to December 31 of each year.**

(000005a)

The equivalent of the authorized continuous flow allowance for any 14-day period may be diverted in a shorter time, provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

Friant Dam – By California Coordinate System of 1983, Zone 4, North 2,247,856 feet and East 6,355,935 feet, being within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, T11S, R21E, MDB&M.

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

At Friant-Kern Power Plant within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, Madera Power Plant within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, River Outlet Power Plant within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, and New River Outlet Power Plant within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, all within T11S, R21E, MDB&M, as shown on map filed with State Water Board.

This license shall not be construed as conferring upon the licensee right of access to the point of diversion.

(0000022)

Water diverted under this license is for nonconsumptive use and is to be released to: (A) Friant-Kern Canal within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ Section 5, T11S, R21E, MDB&M, (B) Madera Canal within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, T11S, R21E, MDB&M, (C) San Joaquin River within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, T11S, R21E, MDB&M, and (D) San Joaquin River within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 5, T11S, R21E, MDB&M.

(0000111)

Releases of water through Friant Dam under this license shall be subordinate to existing water rights and shall not interfere with the prior rights of downstream users.

This license is subject to prior rights. Licensee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the San Joaquin River Basin are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the State Water Board, made after notice to interested parties and opportunity for hearing.

(0000090)

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.

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 State Water Board.

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

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 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 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 State Water 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 State Water 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 State Water 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.

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

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 2089) 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.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

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 State Water 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 (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.

STATE WATER RESOURCES CONTROL BOARD

Original Signed by: PGC for

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: July 11, 2011



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

License for Diversion and Use of Water

Page 1 of 4

APPLICATION 25882

PERMIT 18302

LICENSE 13286

THIS IS TO CERTIFY, That

Friant Power Authority

24790 Avenue 95

Terra Bella, CA 93270

has made proof as of **October 17, 1996** (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of **San Joaquin River in Fresno County and Madera County**

tributary to **Suisun Bay**

for the purpose of **Power use**

under Permit **18302** of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from **December 6, 1978** and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **four thousand three hundred forty-five (4,345) cubic feet per second to be diverted from January 1 to December 31 of each year.**

(000005a)

The equivalent of such continuous flow allowance for any 14-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

Friant Dam - North 39° 30' West, 2,200 feet from S¼ corner of Section 5, T11S, R21E, MDB&M, being within NW¼ of SW¼ of said Section 5.

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

At Friant-Kern Power Plant within SE¼ of SW¼ of Section 5, Madera Power Plant within NW¼ of SW¼ of Section 5, and River Outlet Power Plant within SW¼ of SW¼ of Section 5, all within T11S, R21E, MDB&M, as shown on map filed with State Water Resources Control Board.

This license shall not be constructed as conferring upon the licensee right of access to the point of diversion.

(0000022)

Water diverted under this license is for nonconsumptive use and is to be released to:

(A) Friant-Kern Canal within SE¼ of SW¼ of Section 5, T11S, R21E, MDB&M, (B) Madera Canal within NW¼ of SW¼ of Section 5, T11S, R21E, MDB&M, and (C) San Joaquin River within SW¼ of SW¼ of Section 5, T11S, R21E, MDB&M.

(0000111)

Releases of water through Friant Dam under this license shall be subordinate to existing water rights and shall not interfere with the prior rights of downstream users.

This license is subject to prior rights. Licensee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the San Joaquin River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

(0000090)

Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, 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 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.

Pursuant to California 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 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.

This continuing authority of the Board 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 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, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the 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: **JULY 21 1997**

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
for Chief, Division of Water Rights