



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

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 28319
Page 1 of 5

PERMIT 20076

LICENSE **13730**

THIS IS TO CERTIFY, That

Geysers Power Company, LLC
c/o Land Department
10350 Socrates Mine Road
Middletown, CA 95461

has made proof as of **July 13, 1995** (the date of inspection) to the satisfaction of the State Water Resources Control Board (SWRCB) of a right to the use of the waters of **Big Sulphur Creek** in **Sonoma County**

tributary to **Russian River**

for the purpose of **Geothermal Power and Industrial uses**

under Permit **20076** of the SWRCB; that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the SWRCB, and the permit terms; that the priority of this right dates from **November 9, 1984**; 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 **(a) twelve and twenty-seven hundredths (12.27) cubic feet per second by direct diversion from October 1 of each year to June 30 of the succeeding year for Geothermal Power use via injection into the underground geothermal field, and (b) one thousand five hundred (1,500) gallons per day by diversion from January 1 to December 31 of each year for Industrial use. The maximum amount diverted under this license for all uses shall not exceed 3,222 acre-feet per year.**

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there is 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:

BSC-2 Extraction Facility – North 400 feet and West 806 feet from SE corner of Section 19, T11N, R8W, MDB&M, being within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 19.

THE PLACES OF INJECTION OF SUCH WATER ARE LOCATED:

Injection Well GDCF 117A19 within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, T11N, R8W, MDB&M,

Injection Well GDCF 18 within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 20, T11N, R8W, MDB&M, and

Injection Well GDC 5 within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 30, T11N, R8W, MDB&M.

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

Geothermal Power use at Operating Units 9 and 10 within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 20, Operating Unit 12 within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18, Operating 14 within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, and Operating Unit 20 within Lot 5 of Section 28, and Industrial use at tanker fill within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 19, all within T11N, R8W, MDB&M, as shown on map filed with the SWRCB.

For the protection of fish and wildlife, the licensee shall during the period: (a) from October 1 to November 30 bypass a minimum of 12.5 cubic feet per second; (b) from December 1 to March 31 bypass a minimum of 15 cubic feet per second; and (c) from April 1 to June 30 bypass a minimum of 12.5 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated rate.

The above bypasses of water apply only during diversion of Geothermal Power use.

Streamflows shall be measured at the device required by the conditions of this license. Licensee shall record the streamflow, as measured by the device, on every day that water is diverted for Geothermal Power use under this license. A record of the streamflow measurements shall be submitted with the Report of Licensee.

(0140060)

No water shall be diverted under this license unless the licensee has installed a device, satisfactory to the Chief of the Division of Water Rights, at the gauging station located immediately downstream of the BSC-1 Extraction Facility (point of diversion for license to be issued pursuant to Application 28320) which is capable of measuring the flows required by the conditions of this license. The measuring device shall be properly maintained.

(0060062)

This license is conditioned upon full compliance with sections 1601, 1603, and/or section 6100 of the Fish and Game Code, and any additional National Marine Fisheries Service requirements for fish screens. When replacement of the fish screen required by this term becomes necessary, the new screen shall comply with the current screening criteria established by the State Department of Fish and Game and the National Marine Fisheries Service. If the device(s) required by this term is rendered inoperative for any reason, all diversions shall cease until such time as the device(s) is restored to service.

(0000063)

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

(0000022)

Licensee shall allow representatives of the SWRCB and the State Department of Fish and Game reasonable access to the project works to determine compliance with terms of this license.

Before making any change in location of injection wells specified in this license, licensee shall provide written notification to the SWRCB regarding such change, along with an updated map to replace the License Map filed with the SWRCB by licensee.

(9990300)

Should licensee wish to drill any new injection wells from a location not currently used for either the production of stream or injection water, or build any new power generating facilities, or in the event that any changes in the locations or expansions of the point of diversion become necessary at a future date, the proposed relocations shall be evaluated by a professional archeologist to ensure that no cultural resources will be impacted by proposed changes. A report shall be submitted to the Chief of the Division of Water Rights for review and approval. Future developments at these locations may be permitted if: the sites are determined not to be eligible for inclusion in the California Register for Historic Resources; or appropriate mitigation measures, to be recommended by a qualified archeologist and approved by the Chief of Division of Water Rights, are completed.

Should any buried archeological material 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 stones. 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 licensee 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 the Chief of the Division of Water Rights.

(0380500)

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 SWRCB.

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.

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.

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.

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.

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 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.

STATE WATER RESOURCES CONTROL BOARD

**ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:**

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: JUL 10 2007