FORM L-1928

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

# License for Diversion and Use of Water

Notice of Assignment (Over)

LICENSE No. 728 PERMIT No. 2324 APPLICATION No. 4537

**This is to Certify,** *That* John J. Hickey and Amada Hickey of

Stockton, California *have made proof to the satisfaction of the Division of Water Rights of California of a right to the use of the waters of* Burns Cutoff

in San Joaquin County

*tributary of* San Joaquin River

*for the purpose of* irrigation use
*under Permit No.* 2324 *of the Division of Water Rights and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Rights and the terms of the said permit; that the priority of the right herein confirmed dates from* April 10, 1925

*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* two and seventy five hundredths (2.75) cubic feet per second from about April 1st to about November 1st of each season. Diversions under this license together with those under ex sting rights of licensee herein, which are to be directly applied to irrigation use without storage, shall not exceed the rate of one cubic foot per second continuous flow to each eighty acres of irrigated land; provided, however, that in case of rotation the equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

*The point of diversion of such water* are *located* (1) South four hundred (400) feet and West five hundred sixty (560) feet from the Northeast corner of the Northwest quarter of Section 12, being within the NE¼ of NW¼ of Section 12, T 1 N, R 5 E, M.D.B. & M. (2) North fifty (50) feet and West four hundred sixty (460) feet from the quarter section corner at the center of Section 12, being within the SE¼ of NW¼ of Section 12, T 1 N, R 5 E, M.D.B. & M.

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

40 acres within NE¼ of NE¼ and
40 acres within SE¼ of NE¼ of Section 11.
40 acres within NW¼ of NW¼,
40 acres within SW¼ of NW¼,
28 acres within NE¼ of NW¼, and
32 acres within SE¼ of NW¼ of Section 12;
220 acres total, all within T 1 N, R 5 E, M.D.B. & M.

As there is a possibility that there wibl not be sufficient water in San Joaquin River during the latter part of the irrigation season to satisfy all requirements, this license is issued subject to the express condition that the use hereunder may be regulated by the Division of Water Rights during such periods of water scarcity to the end that such use will not interfere with rights under prior applications.

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

*This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:*

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, 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 said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same 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 permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, 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 permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; *and providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and provided, further*, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

*Witness the signature of the Chief of the* DIVISION OF WATER RIGHTS, *Department of Public Works of the State of California, and the seal of said department this* 7th *day of* May, 1928.

Harold Conkling

*Chief of Division of Water Rights, Department of Public Works of the State of California*

11/17/46 RECEIVED NOTICE OF ASSIGNMENT TO ~~Jim~~ Amuda Hickey to John J. Hickey

3/1/49 RECEIVED NOTICE OF ASSIGNMENT TO Nello & Tillie Giovannoni

3/1/49 RECEIVED NOTICE OF ASSIGNMENT TO Nello & Tillie Giavonani

/13/97 Assgd partial asgmt to Alan Giovannoni

5-10-99 Assgd to Alan Giovannoni;

LICENSE NO. 728

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RIGHTS

LICENSE
TO APPROPRIATE WATER

ISSUED TO John J. & Amuda Hickey

DATED May 7, 1928

57381 2-28 2M CALIFORNIA STATE PRINTING OFFICE

2