

RECEIVED
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DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase <u>29-497B</u>
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☒ LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing City of Downey, Idaho

My name is Steven R. Fuller

My address is P.O. Box 191, Preston, ID 83263

My phone number is (208) 852-2680

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

There existed a miscommunication between the City of Downey and myself
as to who would actually file the claim. This error was recently
discovered.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

(1) Judgment in Coffin, et al vs. Criddle, et al, Bk 2 Jdms. 34, Bannock County

(2) Deed from Bybee to Downey Water Co. Bk 21 Deeds 558, Bannock County

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 100.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on Tuesday, April 19, 2011 at 1:30 p.m.
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of IDAHO

County of Franklin

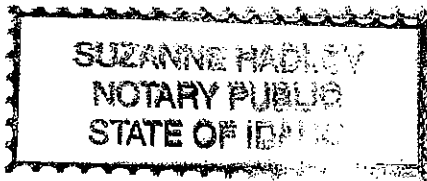
STEVEN R. FULLER, being first duly sworn, upon oath, deposes and says:
(insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Steven R. Fuller
Attorney signing in representative capacity
Steven R. Fuller

Subscribed and sworn to before me on January 12, 2011.
(Insert Date)



Suzanne Hadley
Notary Public for Idaho
Residing at: Swan Lake, ID
My Commission expires: 8/11/2015

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on January 12, ²⁰¹¹~~2009~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

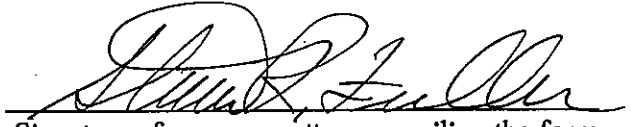
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)


Signature of person or attorney mailing the form
Steven R. Fuller

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-497B
Date Received: 1/10/2008
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CITY OF DOWNEY Phone: (208)897-5342

PO BOX 204
DOWNEY ID USA 83234-0204

2. Date of Priority: 06/01/1879

3. Source: NINEMILE CREEK Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11S	38E	8	NW SE	BANNOCK	

5. Description of diverting works:

PERFORATED PIPE TO A COLLECTION BOX. THEN IT GOES INTO THE CITIES PIPES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MUNICIPAL	01/01	12/31	0.08	

7. Total Quantity Appropriated is:
0.08 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
11S	37E	27	SW	NE		MUNICIPAL	
			SW	NW		MUNICIPAL	
			SE	NW		MUNICIPAL	
			NE	SW		MUNICIPAL	
			NW	SW		MUNICIPAL	
			SW	SW		MUNICIPAL	
			SE	SW		MUNICIPAL	
			NW	SE		MUNICIPAL	
			SW	SE		MUNICIPAL	
11S	37E	28	NE	SE		MUNICIPAL	
			SE	SE		MUNICIPAL	
11S	37E	34	NW	NE		MUNICIPAL	
			SW	NE		MUNICIPAL	
			SE	NE		MUNICIPAL	
			NE	NW		MUNICIPAL	
			NW	NW		MUNICIPAL	
			SW	NW		MUNICIPAL	
			SE	NW		MUNICIPAL	
			NE	SW		MUNICIPAL	
			NW	SW		MUNICIPAL	
			NE	SE		MUNICIPAL	
NW	SE		MUNICIPAL				

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

P/D & P/U INCOMPLETE.
AS PER TRANS. 928.

Place of use is within the service area of the City of Downey municipal water supply system as provided for under Idaho Law.

15. Basis of Claim: Decreed

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am Mayor of
Title

City of Downey, that I have signed the foregoing
Organization

document in the space below as Mayor of
Title

City of Downey and that the statements contained in the
Organization

foregoing document are true and correct.

Dennin J. Phillips
Signature of Authorized Agent

Mayor, City of Downey
Title and Organization

1-17-08
Date

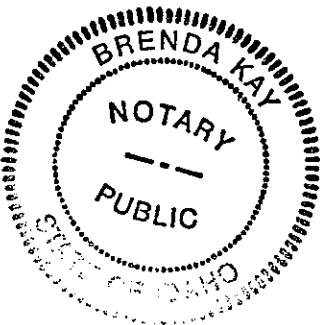
State of Idaho)
County of Bannock) ss.

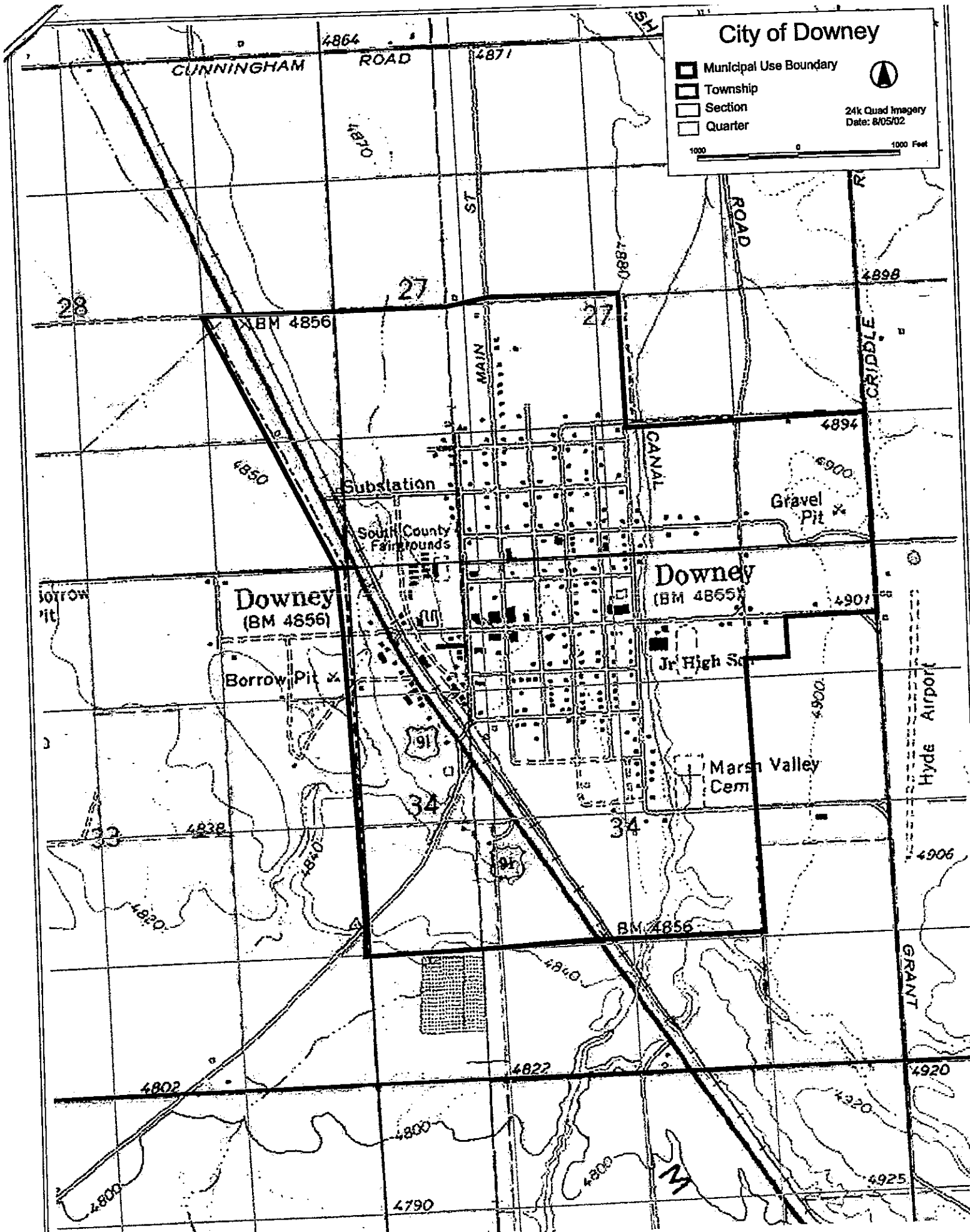
Subscribed and sworn (or affirmed) before me this 17th day
of January 2008

Brenda Kay
Notary Public

Residing at Swan Lake, Idaho

My commission Expires 1-14-2014





In The District Court of the Fifth Judicial District in and for Bannock County
State of Idaho

Sophronia Coffin and William
Bybee, Plaintiffs

Judgment.

Recorded: Book 2 June 34.

John Griddle, Dave Day, Robert
Pollack, Reubin Kendall and Royal
Kendall, Defendants

Cause came on regularly to be heard on February 1906.

Wherefore by reason of the law and the findings aforesaid it is ordered,
adjudged and decreed that the plaintiff Sophronia Coffin is entitled to the
flow of 125 inches of the waters of the said Nine Mile Creek, through her said
ditch under a four inch pressure, from the 1st day of March in each and every
year, and to the flow of 100 inches of the said waters thereafter under a four
inch pressure.

That the plaintiff William Bybee is entitled to the flow of the waters of the
said Nine Mile Creek through the ditch of plaintiffs to the amount of 25
inches under a four inch pressure for the whole of each and every year.

That the said water shall be measured by a box to be placed at or near the
head of the said ditch of plaintiffs and to be 34 feet long and to have a fall
of 1 inch to the rod and the water to be measured at the head of the said box
and the said box to be not less than 18 inches wide.

That the defendants nor either of them have any interest in or to any of the
waters of the said stream known as Nine Mile Creek.

That the defendants and each of them is hereby perpetually restrained and
enjoined from in any manner interfering with the rights of the plaintiffs and
each of them in the undisturbed use and enjoyment of the said waters as above
decreed, and that each party to this action pay his own costs.

Joseph C. Rich, Dist. Judge.

DEED

William J. Bybee and Eliza
Bybee, his wife

to

Downey Water Company, a corporation.

Dated: June 19, 1912.

Filed: June 24, 1912 at 9:35 AM.

Recorded: Book 21 Deeds 558.

Cons. \$1.00. Filing #24503.

Whereas the said first parties are the owners and entitled to the use of five inches, measured under a four inch pressure, of the waters of Nine Mile Creek, in Bannock County, Idaho, under by virtue of a certain judgment or decree of the District Court of the Fifth Judicial District of the State of Idaho, in and for Bannock County, recorded in Book 2 of Judgments, at page 34, of the Record of the said District Court of Bannock County, and have continuously made beneficial use of the said waters since the date of the said decree, and

Whereas, the said first parties desire to convey to second party of the said waters four inches thereof, measured under a four inch pressure, and separate apart from the land on which the said water has heretofore been used.

Grant, bargain, sell and convey, Four inches of the waters of Nine Mile Creek in Bannock County, Idaho, measured under a four inch pressure.

William J. Bybee and
Eliza E. Bybee

Acknowledged in Bannock County, State of Idaho, June 19, 1912, by William J. Bybee and Eliza E. Bybee, his wife, before Geo. R. Crockett, a Notary Public in and for said County and State. (Seal).

Warranty Deed

THIS INDENTURE, Made this seventh day of October
in the year of our Lord One Thousand Nine Hundred and forty-two, between

G. Eugene England and Dora H. England
of Downey, County of Bannock, State of Idaho
the parties of the first part, and

John E. Criddle and Cloah Criddle
of Downey, County of Bannock, State of Idaho
the parties of the second part:

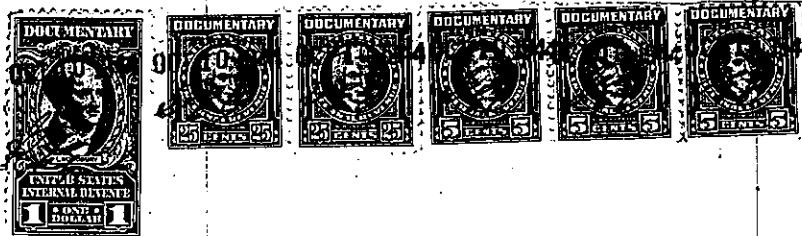
WITNESSETH: That the said parties of the first part, for and in consideration of the sum of
- ELEVEN HUNDRED AND no/100 - DOLLARS,
lawful money of the United States of America, to them in hand paid by the said parties of the second part, the receipt
whereof is hereby acknowledged

do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said parties
of the second part and to their heirs and assigns forever: All that certain ~~lot~~
one-inch of water, being in the County of Bannock State of Idaho, ~~more~~
~~more~~ more particularly described as follows, to-wit:

use of one-inch, measured under four inch pressure, of the waters of Nine Mile
Creek in Bannock County, Idaho, now in use through the Downey City water mains
on the Northwest Quarter of Section 26, Township 11 South, Range 37 East of the
Boise Meridian, and is the remaining one inch of the original five inches
owned by William J. and Eliza E. Bybee as recorded in Book 2 of Judgments at
Page 34 of the record of the said District Court of Bannock County, Idaho.

This water is given separate and apart from the land on which the water has been
used by the parties of the first part.

This water to be used from the date of this deed on the Southwest Quarter of
Section twenty-six, Township 11 South, Range 37 East of the Boise Meridian.



Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and
the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident
unto the said parties of the second part, and to their heirs and assigns forever. And the said parties of the
first part, and their heirs the said premises in the quiet and peaceable possession of the said parties of the second part,
their heirs and assigns against the said parties of the first part, and their heirs and against all and every
person or persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand s and seal s
the day and year first above written.

Signed, Sealed and Delivered in the Presence of

G. Eugene England [Seal]
Dora H. England [Seal]
[Seal]

STATE OF IDAHO,
County of Bannock } ss.

On this seventh day of October

in the year 1942, before me,

J. G. Bickmore a Notary Public in and for said County and State, personally appeared

G. Eugene England and Dora H. England

known to me to

be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above

written.
My Commission Expires Oct. 1, 1945

J. G. Bickmore

Notary Public.

Residence Downey, Idaho

2059008
WARRANTY DEED

G. Eugene England, et ux.

TO

John E. Criddle and

Gleah Criddle

Dated October 7, 1942, 19

STATE OF IDAHO,
County of Bannock } ss.

I hereby certify that this instrument was filed for

record at the request of *John E. Criddle*

at *10* minutes past *3*

o'clock *PM*, this *24* day of *Oct* A.D. 19*44*

at my office and duly recorded in Book *92*

of Deeds at page *39* *Reefer*

Ex-Officio Recorder.

By *ee* Deputy.

Fee, \$ *1*

PRIMES & SONS, POCAHONTO, IDAHO

Downey Idaho