

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
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	Coffin, Sophronia	2.5		29-0496
928	Village of Downey	2.5	0	29-0496A

29-0496A

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TEST

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application of the

Village of Downey,
Downey, Idaho,
Willis Barfuss,
Mayor,

ORDER GRANTING TRANSFER
NO. 928

For a Transfer of Water Right in
Water District No. 17-H, County
of Bannock, Idaho

WHEREAS, on July 24, 1959, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of the application of the Village of Downey, through Willis Barfuss, Mayor, of Downey, Idaho, for a transfer of water right came on regularly for hearing pursuant to the published notice in due and statutory form, and,

WHEREAS, no pretest has been filed against the application, and the evidence filed by the applicant, with the application, shows that the water will be put to a higher and more beneficial use, and that no one will be injured thereby;

NOW, THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is HEREBY GRANTED, and that a Certificate of Transfer be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho, to be hereunto affixed at Boise, Idaho, this 17th day of September, 1959.

GEO. N. CARTER

GEO. N. CARTER
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Certificate of Water Right
Transferred Right No. 928

THIS IS TO CERTIFY that the Village of Downey is the owner of and using a certain water right for 2.58 cubic feet per second of the waters of Nine Mile Creek; 2.5 cubic feet per second decreed to Sophronia Coffin with priority of 1877, and 0.08 cubic feet per second with priority of 1879, decreed to William Bybee, by Judge Joseph C. Rich in the Judicial District Court of the State of Idaho, in and for the County of Bannock, in the case of

SOPHRONIA COFFIN, et al
Plaintiffs,

vs.

JOHN CRIDDLE, et al
Defendants

said Decree bearing date of February 10, 1900, and carrying the following proviso:

2.5 cubic feet per second decreed to
Sophronia Coffin from March 1st to
July 1st in each and every year, and
2.00 cubic feet per second from
July 1st thereafter;

.08 cubic feet per second decreed to
William Bybee all year, and being
appurtenant to the following de-
scribed lands to-wit:

SW $\frac{1}{4}$, Section 23, NW $\frac{1}{4}$ Section 26,
Township 11 South, Range 37 East,
B. M.

That said Decree has been entered in the records of the Department of Reclamation of the State of Idaho in Volume 1 of Decrees, beginning at Page 95 thereof;

That the Village of Downey has become the owner by means conveyance as by abstract of title of said water right hereto attached and made a part of this statement; and said right to the use of said water is to be for municipal use only;

That now upon the application of the Village of Downey, through Willis Barfuss as Mayor, for a Certificate of Transfer of water right made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to the use of 2.58 cubic feet per second of the waters of Nine Mile Creek upon the above described lands is hereby abandoned, and the lands to be irrigated under such right and to which the water right hereby confirmed shall become appurtenant by this Certificate and described as follows, to-wit:

VILLAGE OF DOWNEY and VICINITY

That the said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount to-wit:

2.50 cubic feet per second with
priority of 1877, and 0.08 cubic
feet per second with priority of 1879;

That the water right hereby transferred has heretofore been conducted to first above described lands through private ditches, with unknown point of diversion from Nine Mile Creek, in Township 11 South, Range 37 East, B. M.,

That the water right hereby transferred will hereafter be conducted to the last above described Village of Downey and vicinity, through a pipe line with point of diversion in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 8, Township 11 South, Range 38 East B. M.,

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 17th day of September, 1959.



GEO. N. CARTER
State Reclamation Engineer

In the District Court of the Fifth Judicial District, in and for
Bannock County - State of Idaho.

Sophronia Coffin and
William Bybee,
Plaintiffs

vs.

JUDGMENT.

John Criddle, Dave Day, Robert Pollock,
Reubin Kindall and Royal Kindall,
Defendants.

Trans #928

This cause coming on regularly to be heard on February 10th. 1900, before the Court without a jury, a jury having been expressly waived by the respective parties, and the plaintiffs appearing by their attorneys, Winters & Guheen, and the defendants John Criddle, and Dave Day appearing by their attorney Thos. F. Terrell and the defendants Robert Pollock, Reubin Kindall and Royal Kindall having heretofore filed their appearance and disclaimer in the premises, and after hearing the proofs offered and received by the respective parties, and after argument by the respective Counsel the cause was submitted to the Court for consideration and decision, and after due deliberation thereon, the Court files its findings and decision in writing, and orders that judgment be entered herein in favor of the plaintiffs in accordance therewith:

29-0496 Wh refers 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 One Hundred and Twenty Five inches of the waters of the said Nine Mile creek, through her said ditch, under a four inch pressure, from the first day of March in each and every year, up to the first day of July of each and every year, and to the flow of One Hundred inches of the said waters thereafter, under a four inch pressure.

MICROFILMED

September 17, 1959

Re: Transfer of Water Right No. 928

Mr. Willis Barfuss, Mayor,
Village of Downey,
Downey, Idaho.

Dear Mayor Barfuss:

We enclose Order No. 928 granting transfer
and certificate of decreed water right, Transfer
No. 928, together with Departmental Receipt No. 29775
for \$1.00 issued as receipt of fee for recording said
transfer.

Very truly yours,

CHAS. N. CARTER
State Reclamation Engineer
By

ROY W. THOMPSON
Supervisor of Water Distribution

Encl.
RWD:pak

RECORDED

September 14, 1959

Re: Transfer of Water Right

Mr. Willis Barfuss, Mayor,
Village of Downey,
Downey, Idaho.

Dear Mayor Barfuss:

Regarding your Transfer of Water Right filed with
the Department of Reclamation.

Notice of proposed transfer has been duly published
in the Downey Comet. There has been no protest received in
connection with this transfer.

Therefore, if you will furnish us an Affidavit show-
ing proof of publication from the Downey Comet, the Depart-
ment will issue you a Certificate of Transfer.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

ROY W. THOMPSON
Supervisor of Water Distribution

RWT:pak

RECORDED
INDEXED
SEP 15 1959
FBI - IDAHO

**NOTICE OF PROPOSED
TRANSFER OF WATER RIGHT**

Notice is hereby given that Village of Downey, by Willis Barfuss, Mayor of Downey, Idaho has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing it to change the point of diversion and place of use of the waters of Nine Mile Creek as follows:

Amount: 2.58 cubic feet per second. Priority: 1877-1879: Point of diversion: Unknown point from Nine Mile Creek, Township 11 S., Range 37 or 38 East, B.M. Place of Use: SW $\frac{1}{4}$, Sec. 23, NW $\frac{1}{4}$ Sec. 26, T. 11 S. R. 37 East B.M.

TO Be Transferred To

Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 8, Township 11 S., Range 38 E., B.M. Place of Use: The Village of Downey and vicinity.

And that on the 24th day of July, 1959, at 10:00 o'clock A. M., at Room 107, State House, Boise, Idaho before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present, for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

Geo. N. Carter
State Reclamation Engineer
7-9-2D

PROOF OF PUBLICATION

STATE OF IDAHO,)

) ss.

County of Bannock)

Ralph B. Swisher

being first duly sworn, on his oath, deposes and says:

That he is a citizen of the United States of America, over the age of 21 years; that he was at all times herein mentioned the principal Clerk of the Downey Comet, a weekly newspaper published at Downey, County of Bannock, State of Idaho, and having a general circulation therein.

That said deponent, during all times mentioned in this affidavit, has had and still has charge of all the advertisements in said newspaper; that the Notice of Proposed Transfer of Water Rights, of which the annexed is a true printed copy, was published in the said Downey Comet

on the following dates, to wit:

July 2 and 9, 1959

That said newspaper has been consecutively, continuously and uninterruptedly published in said county for a period of 78 weeks prior to publication of said notice, and is a "newspaper" within the meaning of the laws of Idaho.

Ralph B. Swisher

SUBSCRIBED and sworn to before me this 10th day of

July, 1959
James M. [Signature]

Notary Public, Pocatello, Idaho

My commission expires: 15 Oct 61

VILLAGE OF DOWNEY

BANNOCK COUNTY

DOWNEY, IDAHO

September 16, 1959

RECEIVED
SEP 17 1959
Department of Reclamation

George H. Carter
State Reclamation Engineer
 Boise, Idaho

Dear Mr. Carter:

In answer to your letter of September 14, 1959, regarding the transfer of Water Right, we are enclosing a copy of the first publication of this item. We will be expecting the Certificate of Transfer from your department.

Faithfully yours,

Very truly yours,
Mary D. Bayless Clerk
Village of Downey
Downey, Idaho

S T A T E O F I D A H O

DEPARTMENT OF RECLAMATION

Boise, Idaho

June 29, 1959

**The Downey Comet,
Downey, Idaho.**

Gentlemen:

Enclosed you will find notice for publication, once a week for two consecutive weeks prior to **July 24, 1959** the date set for hearing; the expense of the publication is to be paid by the applicant **Village of Downey , by Willis Barfuss, Mayor** of Downey, Idaho to whom you should furnish proof of publication on or prior to the date set for hearing.

Please acknowledge receipt of this notice and furnish this office with a copy or tear-sheet of the first publication.**

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Roy W. Thompson

Supervisor of Water Distribution

**If the first copy is not received in this office for checking purposes and errors appear in subsequent issues, it is possible that re-publication of corrected copy will be at your own expense.

Encl.

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Village of Downey, by WILLIS Barfuss, Mayor of Downey, Idaho has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing it to change the point of diversion and/or place of use of the waters of Nine Mile Creek as follows:

Amount: 2.58 cubic feet per second. Priority: 1877-1879

Point of diversion: Unknown point from Nine Mile Creek, Township 11 S., Range 37 or 38 East

Place of Use: SW 1/4 Sec. 23, NW 1/4 Sec. 26, T. 11 S. R. 37 East B.M.

To Be Transferred To

Point of diversion: NW 1/4 SE 1/4, Section 8, Township 11 S., Range 38 E., B. M.

Place of Use: The Village of Downey and vicinity

And that on the 24th day of July, 1959, at 10:00 o'clock A. M., at Room 107, State House, Boise, Idaho before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present, for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

GEO. N. CARTER
State Reclamation Engineer

RECORDED

June 5, 1959

Application for Permit
Application for Transfer of Water Right

Village of Downey
Willis Barfuss, Mayor
Downey, Idaho

Dear Mr. Barfuss:

Enclosed are:

1. Application for permit to appropriate 2.95 c.f.s.
2. Application for transfer of water right you submitted
3. Abstract of water rights
4. Application for transfer of water right prepared in this office.

Application for permit has been changed in pencil. The amount of water claimed plus your decreed right add up to more than the maximum flow of the springs shown under remarks to be about 3.95 cubic feet per second. The decreed right is for 2.58 cubic feet per second maximum. The amount claimed could be reduced to not over 2 cubic feet per second and probably cover all the water you can obtain from the springs. That would reduce the filing fee to \$5.25. The application included only one map and no fee. The check originally attached when first filed on November 11, 1958 was returned and a new check was not attached. Return application after checking or changing, with the fee attached.

Application for transfer of water right you submitted is returned as it cannot be approved.

Abstract of water rights are returned as we retained one copy with the original application and one copy is all we need.

Application for transfer of water right prepared in this office covers the facts shown in the Court Decree and the information you submitted. Check this application and if you concur sign on Page 2, before a Notary Public, and also sign on page 3, not necessarily before the Notary Public. The fee of \$1.00 should be with the transfer when submitted to this office.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC:RT:ew
Enc. applications (3)
abstract of water rights

MICROFILMED

RECEIVED
JUN 29 1959
Department of Reclamation

Application For Transfer of Water Right

STATE OF IDAHO

County of Bannock

Village of Downey, Idaho

by Willis Barfuss, Mayor

} ss.

, being first duly sworn, deposes and says:

That his name is Willis Barfuss; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is Downey, Idaho

That he is the owner and using a certain water right, bearing date of priority of 2.58 ^{2.58} ¹⁸⁷⁷ _{0.08}, 19 ¹⁸⁷⁷ for 2.58 cubic feet per second of the waters of Nine Mile Creek 2.5 c.f.s. to Sophronia Coffin County of Bannock, State of Idaho, decreed to .08 c.f.s. to William Bybee by decree of Judge Joseph C. Rich of the 5th Judicial District of the State of Idaho, in and for the county of Bannock, in the case of Sophronia Coffin, et al vs. John Criddle, et al, said decree bearing date of February 10, 1900 (or obtained by virtue of License No. _____, issued by the State Department of Reclamation of the State of Idaho, dated _____, 19____, bearing date of _____, 19____) for the purpose of irrigating the following described lands situate, lying and being in Water District No. 17H in the County of Bannock and State of Idaho, to-wit: SW¹/₄ Sec. 23; NW¹/₄ Sec. 26, Twp. 11 S., Rge. 37 E. BM

_____ and is the person (or representative of the corporation) to whom such right so issued, or has become the owner thereof in the following manner, i.e. mesne means

as per abstract of title of said water right hereto attached and made a part of this statement;

That said waters ^{were} ~~are~~ diverted from said stream in the unknown point of from Nine Mile Creek Section _____, Township 11 S, Range 37 E or 38 E, B. M., and conducted to the above described lands through private ditch as per map herewith and of this affidavit made a part.

CHANGE IN PLACE OF USE

That affiant and petitioner desires to abandon the use of 2.58 cubic feet per second of said water upon the above described land, and to convey and use same upon the following tract, situate, lying and being in the County of Bannock and State of Idaho, to-wit: Village of Downey and vicinity

That reasons for desiring to make such transfer are as follows: transfer to municipal use

RECEIVED

That he intends to divert and convey said.....2.58.....second feet of water to the tract of land last above described in the following manner and as per map accompanying this application:
through pipe line

Note—If this water right has heretofore been carried jointly in a ditch with other water, affiant should secure written consent of other owners or users to removal from its original carrier and file such consent with this affidavit.

CHANGE IN POINT OF DIVERSION

That affiant desires to change the point of diversion of said waters from the point above described to a point located in NW 1/4 of SE 1/4 of Section 8, Township 11 S., Range 38 E., and thereafter conduct same to the above described land through the pipe line ditch, as per map appended.

That his reasons for desiring to make such change are as follows: to show correct point which is the point of head box where the various spring waters are collected.

Petitioner asserts that no one will be injured by such transfer, or change in point of diversion, and that the change will be made at petitioner's own risk.

WHEREFORE, Affiant and Petitioner prays that the State Reclamation Engineer of the State of Idaho issue to him the proper certificate authorizing such change in point of diversion and/or place of use, in accordance with the provisions of Sections 42-108 and 42-222 of the Idaho Code.

J. B. Foss
Applicant.

Subscribed and sworn to before me this 26 day of June, 1959

Sam A. Lawen
Notary Public.

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Nine Mile Creek

Where is the diversion point located? NW 1/4 SE 1/4 Sec. 8 T11S R38E

Through what ditch is it now conducted? pipe line to Village of Downey

How much land is now irrigated by the water sought to be transferred? none

Give the description: Municipal use only

What is the total amount of water in inches, or second feet, dedicated to said land? none

What kind of crops are being raised? none

How much water per acre is now required to irrigate said land?

What will be the effect on the land now irrigated, if the use of water on it is discontinued?

Water has been so transferred from irrigation for the past 40 years or more

Give location of new point of diversion, if change is to be made. NW¹/₄ SE¹/₄ Sec. 8 T11S R38E

Through what ditch will it be conducted after transfer? same pipe line

How much water will be required per acre to irrigate the land to which this water is transferred?

for municipal use

Do you claim any other water right for the land from which you seek to abandon the use of this water?

If so, give amount, date and source. none

Is there any other water right for the land to which you seek to make this transfer? If so, give amount,

date and source. none

Signed, *J. H. Bayless* Applicant.

STATE OF IDAHO,

County of _____ } ss.

Rudolph Lundgren, Watermaster of *COMMISSIONER DOWNEY*

Water District No. _____, County of *BANNOCK*, State of Idaho, whose postoffice address is *DOWNEY IDAHO*, have read or heard read the foregoing affidavit and petition

of _____, and, of my own knowledge, believe the same to be true as to all matters therein alleged, and that no one will be injured by the transfer prayed to be authorized; and I hereby endorse my approval of said petition, and request that the State Reclamation Engineer issue the certificate of transfer as petitioned; or (do not approve of the issuance of the certificate of transfer prayed for) for the following reasons: _____

Watermaster, District No. _____

Dated at *DOWNEY*, Idaho, this *25* day of *JULY*, 19*59*

Rudolph Lundgren

RECORDED

CONFIDENTIAL

Name of Applicant

R 37E

R 38E

T 11 S

SEC.

SEC.

SEC. 13

SEC. 7

SEC. 8

SEC. 9

SEC.

SEC. 23

SEC. 24

SEC. 18

SEC. 17

SEC.

SEC. 27

SEC. 26

SEC. 25

SEC.

SEC.

SEC.

Spring Area #3

Spring Area #2

Spring Area #5

Spring Area #4

Collection Box

Sophronia Coffin

William Bybee

Reservoir

Fire Line

Dawney Townsite

November 5, 1958

Mr. Willis Barfuss
President of Town Board
Village of Downey
Downey, Idaho

Dear Mr. Barfuss:

Enclosed as follows:

1. Application for Permit to Appropriate the Public Waters of Idaho with your check for \$5.50 attached.
2. Abstract of Title to waters of Nine Mile Creek.
3. Photo copy of Indenture between Downey Water Company and Village of Downey.
4. Form 20--Application for Transfer of Water Right.

The abstract of title to waters of Nine Mile Creek shows that the Village of Downey owns 129 miners inches of decreed water from March 1 to July 1 each year and 104 miners inches from July 1 each year to following March 1. According to the Decree in the case "Sophronia Coffin, and William Bybee, Plaintiffs -vs- John Criddle, et al, defendants" that water is appurtenant to the SW $\frac{1}{4}$ of Section 23 and NW $\frac{1}{4}$ of Section 26, all in Township 11 South, Range 37 East, B.M. There is no record in this office of a transfer of point of use of these water rights. Such a transfer is necessary and a blank transfer form is enclosed for that purpose.

Notice of application for transfer of water right will be prepared in this office after receipt of your application for transfer. The notice is to be published in two weekly issues of a paper published in Blaine County at the expense of the Village of Downey.

The application for permit shows quantity of water claimed as 2.95 cubic feet per second from 18 un-named springs located in Sections 4, 8 and 9, Township 11 South, Range 38 East, B.M., with point of diversion in the SE $\frac{1}{4}$ Section 8, Township 11 South, Range 38 East, B.M.

The springs are evidently tributary to Nine Mile Creek and the waters are included in the decreed waters of Nine Mile Creek. Under remarks on the application, the flow of the springs varies from 2.25 c.f.s. to 3.95 c.f.s. The Village owns 129 miners inches or 2.58 c.f.s. of decreed water from March 1 to July 1 and 2.08 c.f.s. for the balance of each year. The application could cover only the waters in excess of the amount decreed.

RECORDED

RT

Mr. Willis Barfuss
President of Town Board
Village of Downey

page 2

November 5, 1958

The point of diversion shown in the SE $\frac{1}{4}$ Section 8 is evidently the main collection box. The actual points of the springs should be shown in each "40" acre subdivision. As there is not sufficient room on page 1 of the application, you could note "see remarks" and list the various points in that space on page 3.

We are retaining one copy each of the Abstract of Title and Indenture for our file; one copy each being all we require.

Very truly yours,

Geo. H. Carter
State Reclamation Engineer

RT/nls
Enclosures (4)

Abstract of Title

To the following described Real Estate:

WATERS OF NINE MILE CREEK
Bannock County, Idaho

One Hundred Twenty Nine inches from March 1st to July 1st, each year and One Hundred Four Inches from July 1st each year until March 1st each succeeding year, All measured under a Four Inch Pressure.

Abstract and Title Guaranty Co
414 West Center St.
Pocatello Idaho

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

Sophonra Coffin and William
Bybee, Plaintiffs

Judgment.

Recorded: Book 2 Idms. 34. *du*

vs

John Griddle, Dave Day, Robert
Pollock, Reubin Kendall and Royal
Kendall, Defendants.

Cause came on regularly to be heard on Feb. 10, 1900.....

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 five 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 8½ feet long and to have a fall of ½ 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

Sophronia Coffin, widow

Dated: May 1, 1907.

to

Filed: May 1, 1907 at 1:02 PM.

George T. Hyde and John S. Hyde.

Recorded: Book 15 Deeds 632.

Cons. \$5,000.

Real Property and

Also the following water right for said premises, to wit: 125 inches of water under a four inch pressure of the water of Nine Mile Creek from the 1st day of March in each and every year up to the 1st day of July of each year and to the flow of 100 inches of the said water thereafter under a four inch pressure.

Sophronia Coffin

Acknowledged in Bannock County, State of Idaho, May 1, 1907, by Sophronia Coffin, before William Laurensen, a Notary Public in and for said County. (Seal).

Sheet # 1

WARRANTY DEED

George T. Hyde and Emma
Hyde, his wife

Dated: Sept. 5, 1908.

Filed: Jan. 11, 1909 at 10:31 AM.

to

Recorded: Book 18 Deeds 626.

The Downey Townsite and Development
Company, Limited.

Description:

Real Estate and

Together with 125 inches of water, measured under a four inch pressure of the waters of nine Mile Creek from the 1st day of March in each and every year, up to the 1st day of July in each year, and to the flow of 100 inches of the waters of said stream measured under a four inch pressure, from the 1st day of July of each year to the 1st day of March of each following year;

Also other real estate; provided that should there remain any over flow from the springs which are the source of the water right herein conveyed after said corporation has used or is using said water right, the said overflow may be used by the said George T. Hyde for irrigation or other purposes.

George T. Hyde
Emma Hyde

Acknowledged in Blaine County, State of Idaho, Dec. 28, 1908, by George T. Hyde and Emma Hyde, his wife, before William Laurensen, a Notary Public in and for said County. (Seal).

5
QUIT CLAIM DEED

John S. Hyde and Josephine
Hyde, his wife

Dated: Mar. 17, 1911.

Filed: Mar. 20, 1911 at 10:09 AM.

to

Recorded: Book 21 of Deeds 188.

The Downey Townsite and
Development Company, Limited,
a corporation.

Description:

An undivided one half interest in and to 125 inches of water under a four inch pressure of the waters of Nine Mile Creek from the first day of March in each and every year up to the first day of July of each year, and to the flow of 100 inches of the said water thereafter under a four inch pressure.

John S. Hyde
Josephine Hyde

Acknowledged in Bannock County, State of Idaho, Mar. 17, 1911, by John S. Hyde and Josephine Hyde, his wife, before Swen F. Johnson, a Notary Public in and for said County. (Seal).

RECORDED

Sheet # 6

DEED

The Downey Townsite & Development
Company, Limited, a corporation

to

W. Rodman Peabody.

Dated: June 21, 1911.

Filed: June 27, 1911 at 4:29 PM.

Recorded: Book 21 Deeds 266.

Cons. \$1.00. Filing #20550.

Real Estate and,

Together with 125 inches of water, measured under a four inch pressure of the waters of Nine Mile Creek, from the 1st day of March in each and every year, up to the 1st day of July in each year, and to the flow of 100 inches of the waters of said stream measured under a four inch pressure from the 1st day of July of each year to the 1st day of March of each following year.

Downey Townsite & Development Company, Limited
By George T. Hyde, President.
John Ware Secretary. (Seal). -

Acknowledged in Bannock County, State of Idaho, June 21, 1911, by George T. Hyde and John Ware, President and Secretary of the corporation that executed the foregoing instrument, who acknowledged that such corporation executed the same before Thos F. Terrell, a Notary Public in and for said County. (Seal).

WARRANTY DEED

**W. Redman Peabody and
Katherine F. Peabody**

to

Downey Water Company.

Dated: Aug. 8, 1911.

Filed: Sept. 9, 1911 at 12:04 AM.

Recorded: Book XI Deeds 323.

Description:

Real Estate and

Also the right to the use of 128 inches of water measured under a four inch pressure of the waters of Nine Mile Creek, in Blaine County, Idaho, from the 1st day of March in each and every year to the 1st day of July in each year and to the flow of 100 inches of the waters of said stream measured under a four inch pressure, from the 1st day of July of each year to the 1st day of March of each following year, together with the right to convey said waters elsewhere than at the present place of use and to use the same for domestic and municipal purposes.

**W. Redman Peabody
Katherine F. Peabody**

Acknowledged in Suffolk County, State of Mass., Aug. 10, 1911, by W. Redman Peabody and Katherine F. Peabody, his wife, before Fred J. Moffatt, a Notary Public in and for said County and State. (Seal).

DEED

C .W . Hancock and
Martha Hancock, his wife

to

Downey Water Company, a corporation.

Dated: Oct. 25, 1911.

Filed: Feb. 28, 1912 at 11:02 AM.

Recorded: Book 21 Deeds 470.

Filing #23234. Cons. \$1.00.

Description:

Real Property and

First parties further remise, release and foreverquit claim to second party, its successors and assigns, all rights to the use of the waters of Nine Mile Creek and its tributaries, sources and adjacent springs, whether for irrigation, domestic or other use.

In Consideration of the foregoing grants, the party of the second part covenants and agrees that it will install in the pipe line for which right of way is granted, at such practicable point along said right of way as may be designated by first parties, a tap for the taking of water therefrom for the use of the first parties; and further agrees to install at such tap, a water meter for the proper and accurate measuring of the water used by first parties; it being understood and agreed that the meter aforesaid shall be read monthly by party of the second part, and for the amount of water used by first party as registered by said meter, first parties agree to pay second party at the rate of twenty five cents per thousand gallons

C.W. Hancock
Martha Hancock

Acknowledged in Hancock County, State of Idaho, Oct. 25, 1911, by C.W. Hancock and Martha Hancock, his wife, before Swen F. Johnson, a Notary Public in and for said County and State. (Seal).

44 9

DEED

A.C.Anderson and Louise
Anderson, his wife

to

Downey Water Company, a corporation.

Dated: Oct. 25, 1911.

Filed: Feb. 28, 1912 at 11:03 AM.

Recorded: Book 21 Deeds 471.

Filing #23235. Cons. \$1.00.

Description:

Real Property, And first parties further remise, releases and forever quit claims unto second party, its successors and assigns all rights to the use of the waters of Nine Mile Creek and its tributaries, sources and adjacent springs, whether for irrigation, domestic or other use.

The party of the second part further remises, releases and forever quit claims unto the parties of the first part, their heirs and assigns forever, all right to the waters of a certain spring arising at or near the line dividing the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 8, Twp. 11 S. R. 38 E. B. M., providing there shall be any waters arising from such spring after the diversion by second party of the waters of Nine Mile Creek and its tributaries through the pipe line constructed by the said second party.

In consideration of the foregoing grants, the party of the second part covenants and agrees that it will install in the pipe line for which right of way is granted, at such practicable points along said right of way as may be designated by first parties, two taps for the taking of water therefrom for the use of first parties, and further agrees to install at such taps, water meters for the proper and accurate measuring of the water used by first parties and second party hereby grants and conveys to the first parties the right to the use for domestic and culinary purposes and for the watering of stock at the said taps, 12,000 gallons per month of such water as measured by the meters herein referred to, it being understood and agreed that the meters aforesaid shall be read monthly by party of the second part, and no charge shall be made for the use by first parties of the said amount of water.

It is further covenanted and agreed that any additional quantity of water used at said taps above the 12,000 gallons per month, shall be paid for monthly by first parties at the rate of twenty five cents per thousand gallons.

A.C. Anderson
Louise Anderson

Acknowledged in Blaine County, State of Idaho, Oct. 25, 1911, by A.C. Anderson and Louise Anderson, his wife, before Swen F. Johnson, a Notary Public in and for said County and State. (Seal).

DEED

Reuben N.Kendall and Delinia
J.Kendall, his wife

to

Downey Water Company.

Dated:Apr.5,1912.

Filed:May 22,1912 at 9:02 AM.

Recorded:Book 21 Deeds 538.

Filing #24192. Cons.\$1.00.

Real Property and

First parties further remise, release and forever quitclaim to said second party, its successors and assigns, all rights to the use of the waters of Nine Mile Creek, in Bannock Countym Idaho, and its tributaries, sources and adjacent springs, whether for irrigation, domestic or otheruse.

The party of the second part, in addition to the cash consideration herein recited, and as a further consideration for the conveyance by first parties to it of the property herein described, agrees to install, at such point in said pipe line as may be designated by first parties along the course of the said pipe through the lands above described, a tap or other device, whereby said first parties may be supplied with water therefrom, and further agrees to install a meter or proper construction for accurately measuring the said water, and agrees to furnish to first parties 10,000 gallons of water per month, without charge, for irrigation and domestic use. It is covenanted and agreed between the parties that any additional water over the said 10,000 gallons per month used by first parties shall be paid for by them monthly at the rate of 25 cents per thousand gallons.

Reuben N.Kendall
Delinia J.Kendall

Acknowledged in Bannock County, State of Idaho, May 20,1912 by Reuben N. Kendall and Delinia J.Kendall, his wife, before Geo. R.Crockett, a Notary Public in and for said County and State.(Seal).

DEED

William J. Bybee and Eliza
E. 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 and 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).

DEED

Downey Water Company, a
corporation

to

Village of Downey, a
Municipality.

Dated: Aug. 3, 1915.

Filed: Nov. 15, 1915 at 3:15 PM.

Recorded: Book 29 Deeds 517.

Cons. \$22,500.00. Filing #42409.

A certain tract of land beginning at a point south 72°26' West 987 feet from the quarter corner between sections 23 and 24, Twp. 11 South, Range 37 E.B.M. thence North 200 feet; thence East 200 feet; thence South 200 feet; thence West 200 feet to the point of beginning, containing 0.92 acres more or less, Also a 12 foot strip of land as a right of way for a buried pipe line for the conveyance of water across the following land.....

Also all of the pipe lines, manholes, valves, gates, crossovers, tees, elbows, meters, hydrants and other fixtures now installed in place and constituting the fixed plant of the water works system owned by the party of the first part and used for the supply of the village of Downey, Idaho.

Also all rights of way for pipe lines held by virtue of occupancy or permit from any and all authorities, national, state, county or municipal, in and along public lands, public roads and streets.

Also all rights now owned by the company to the use of the waters of nine miles of the creek in Bannock County, Idaho, more particularly described as follows: 125 inches of water, measured under a four inch pressure, of the waters of Nine Mile Creek, in Bannock County, Idaho, from the 1st day of March in each year to the 1st day of July in each year and to the flow of 100 inches of the waters of said stream measured under a four inch pressure, from the 1st day of July in each year to the 1st day of March of each following year, together with the right to convey said waters elsewhere than at the present place of use and to use the same for domestic and municipal purposes.

Four inches of the waters of Nine Mile Creek, in Bannock County, Idaho, under a four inch pressure, together with all and singular the means of use of the same.

All of the property herein enumerated subject, however to the following grants heretofore made by the party of the first part or its predecessors in interest.

To A.C. Anderson, all right to the waters of a certain spring rising at or near the line dividing the SE 1/4 SW 1/4 and the SW 1/4 SW 1/4 of Sec. 8, T 11 S. R. 38 E. B. M. providing there shall be any waters arising from such spring after the diversion by second party of the waters of Nine Mile Creek and its tributaries through the pipe line constructed by party of the first part.

To A.C. Anderson the free use of 12,000 gallons of water per month from the pipe line at two taps as measured by meters, also that any additional water used at said taps in excess of 12,000 gallons shall be paid for monthly at the rate of 25 cents per 1,000 gallons.

To C.W.Hancock, to install a tap and meter and to furnish water for the said C.W.Hancock at the rate of 25 cents per 1,000 gallons.

To Hiram and Ida Bowman to install a tap and meter and furnish for domestic, culinary and stock water 9,000 gallons per month free of charge from said pipe line. If amounts in excess of 9,000 gallons per month are used the said Bowman agrees to pay for the same at the rate of 15 cents per 1000 gallons.

To R.N. and D.J.Kendall, to install a tap and meter and to furnish 10,000 gallons of water per month free of charge. If amounts in excess of 10,000 gallons per month are used they are to be paid for at the rate of 25 cents per 1000 gallons.

To W.J. and Elisa Bybee, to deliver from the pipe line, free of charge to the said Bybee the decreed water to which he is entitled.

To George T.Hyde, by reservation in his deed of Sept.5,1908, "Provided, that should there remain any overflow from the springs which are the source of the water right herein conveyed after said corporation has used or is using said water right, the said overflow may be used by the said George T.Hyde for irrigation or other purposes."

Clifford M.Brewer, Assistant
Secretary. (Corp.Seal).

The Downey Water Company
By Charles S.Davis, President

Acknowledged in City and County of San Francisco, State of Calif., Aug.3, 1915, by Charles S.Davis, President of the corporation that executed the foregoing instrument, who acknowledged that such corporation executed the same, before Nettie.Hamilton, a Notary Public in and for said County and State.(Seal).

Acknowledged in Bannock County, State of Idaho, Aug.5,1915, by Clifford M. Brewer, Assistant Secretary of the corporation that executed the foregoing instrument, who acknowledged that such corporation executed the same, before Swen P. Johnson, a Notary Public in and for said County and State.(Seal).

State of Idaho
County of Bannock, ss.

We hereby certify that the foregoing pages Numbered from One to Thirteen both inclusive, embrace an Abstract of instruments affecting the Water Right described in the caption hereof, as shown by the Records of the County Recorder's Office of Bannock County, Idaho.

Dated at Pocatello, Idaho, this 25th day of February 1937.

Abstract and Title Guaranty Company

By

Secy

THIS INSTRUMENT, made this 3rd day of August, 1915.

between the DOWNEY WATER COMPANY, a corporation duly organized under the laws of the State of Idaho, and having its principal place of business in Downey, Bannock County, Idaho, the party of the first part, and THE VILLAGE OF DOWNEY, a municipality, in Bannock County, Idaho, the party of the second part,

WITNESSETH: That the said party of the first part, for and in consideration of the sum of twenty-two thousand-five hundred dollars (\$22,500.00), to it in hand paid in Municipal Coupon Bonds of the said party of the second part by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said party of the second part, and to its successors and assigns forever all those certain tracts, pieces or parcels of land and other property, situate, lying and being in the County of Bannock and State of Idaho, bounded and more particularly described as follows, to-wit:

A certain tract of land beginning at a point south 72 26' west 987 feet from the quarter corner between sections 23 and 24, Township 11 south, Range 37 e. B. M., thence north 200 feet, thence east 200 feet, thence south 200 feet, thence west 200 feet to the point of beginning, containing 0.92 of an acre more or less.

Also a 12 foot strip of land as a right of way for a buried pipe line for the conveyance of water across the following legal subdivisions

Subdivisions.	Section	Township	Range	Merid.
NW $\frac{1}{4}$ NW $\frac{1}{4}$	17	11 south	38 east	Boise
N $\frac{1}{2}$ NE $\frac{1}{4}$	18	11 south	38 east	"
N $\frac{1}{2}$ NW $\frac{1}{4}$	18	11 south	38 east	"
SW $\frac{1}{4}$ NW $\frac{1}{4}$	18	11 south	38 east	"
SE $\frac{1}{4}$ NE $\frac{1}{4}$	13	11 south	37 east	"
N $\frac{1}{2}$ SE $\frac{1}{4}$	13	11 south	37 east	"

N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$	24	11 south	37 east	Boise
N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	11 south	37 east	"
NW $\frac{1}{4}$	26	11 south	37 east	"
E $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$	27	11 south	37 east	"

Also a right of way for a buried pipe line across certain lots in Downey townsite as follows:

Lot 8, Block 68, as granted by W. A. Hyde Co., Ltd.

" 6, " 68, " " " Consolidated Wagon and Machine Co.

2 7 " 68, " " " Downey Improvement Company.

" 8 " 68, " " " " " " " "

Lots 8, 9, 10 and 11, Block 76, as granted by Downey Improvement Co.

for the extension of the alley in block 59 as granted by Wm Laurensen.

Also all of the pipe lines, manholes, valves, gates, crossovers, tees, elbows, meters, hydrants and other fixtures now installed in place and constituting the fixed plant of the water works system owned by the party of the first part and used for the supply of the Village of Downey, Idaho.

Also all rights of way for pipe lines held by virtue of occupancy or permit from any and all authorities, national, state, county or municipal, in and along public lands, public roads and streets.

Also all rights now owned by the company to the use of the waters of Nine Mile Creek in Bannock County, Idaho, more particularly described as follows: 125 inches of water, measured under a four inch pressure, of the waters of Nine Mile Creek, in Bannock County, Idaho, from the first day of March in each year to the first day of July in each year and to the flow of 100 inches of the waters of said stream, measured under a four inch pressure, from the first day of July in each year to the first day of March of each following year, together with the right to convey said waters elsewhere than at the present place of use and to use the same for domestic and municipal purposes.

feet, under a four inch pressure, together with all and singular the means of use of the same.

All of the property herein enumerated subject, however to the following grants heretofore made by the party of the first part or its predecessors in interest:

To A. C. Anderson, all right to the waters of a certain spring rising at or near the line dividing the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SW $\frac{1}{4}$, of Section 8, T 11 S., R 38 E., B. M., providing there shall be any waters arising from such spring after the diversion by second party of the waters of Nine Mile Creek and its tributaries through the pipe line constructed by the party of the first part.

To A. C. Anderson, the free use of 12,000 gallons of water per month from the pipe line at two taps as measured by meters, also that any additional water used at said taps in excess of the 12,000 gallons shall be paid for monthly at the rate of 25cents per 1,000 gallons.

To C. W. Hancock, to install a tap and meter and to furnish water for the said C. W. Hancock at the rate of 25 cents per 1,000 gallons.

To Miram and Ida Bowman, to install a tap and meter and furnish for domestic, culinary and stock water, 9,000 gallons per month free of charge from said pipe line. If amounts in excess of 9,000 gallons per month are used the said Bowman agrees to pay for the same at the rate of 15 cents per 1000 gallons.

To R. N. and D. J. Kendall, to install a tap and meter and to furnish 10,000 gallons of water per month free of charge. If amounts in excess of 10,000 gallons per month are used they are to be paid for at the rate of 25 cents per 1,000 gallons.

To W. J. and Eliza Bybee, to deliver from the pipe line, free of charge to the said Bybee the decreed water to which he is entitled.

To George T. Hyde, by reservation in his deed of September 5, 1908: "Provided, that should there remain any overflow from the springs

corporation has used or is using said water right, the said overflow may be used by the said George T. Hyde for irrigation or other purposes."

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the said premises.

To have and to hold, all and singular, the said premises, together with the appurtenances, unto the said party of the second part, and to its successors and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be subscribed by its president ^{Assistant} and secretary, and its corporate name and seal to be hereunto affixed on the day and year first above written.

The Downey Water Company

By Charles S. Davis
President

and Clifford M. Brown
^{Assistant} Secretary.

Corporate Seal

State of California

City and County of San Francisco ss

On this 3rd day of August, 1915, before me,

Walter Hamilton notary public in and for said county and state, personally appeared Charles S. Davis

known to me to be the president of the corporation that executed the within and foregoing instrument and acknowledged to me that such corporation executed the same.

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

soever, as well in law as in equity, of the said party of the first part, of, in and to the said premises.

To have and to hold, all and singular, the said premises, together with the appurtenances, unto the said party of the second part, and to its successors and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be subscribed by its president and ^{Assistant} secretary, and its corporate name and seal to be hereunto affixed on the day and year first above written.

The Downey Water Company

By Charles S. Davis
President

and Clifford M. Brown
Assistant Secretary.

Corporate Seal

State of California
City and County of San Francisco ss

On this 3rd day of August, 1915, before me, Willie Hamilton a notary public in and for said county and state, personally appeared Charles S. Davis known to me to be the president of the corporation that executed the within and foregoing instrument and acknowledged to me that such corporation execute the same.

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

Willie Hamilton

County of San Francisco, State of California

State of North
County of Brunswick

ss

On this 5th day of August, 1915, before me,

Sam F. Johnson, a notary public in and for said
county and state, personally appeared Clifford M. Brewer
Assistant
known to me to be the secretary of the corporation that executed the
within and foregoing instrument and acknowledged to me that such cor-
poration executed the same.

IN WITNESS WHEREOF I have hereunto affixed my official
seal on the day and year in this certificate first above written.

My commission expires
Jan. 28, 1919.

Sam F. Johnson
Notary Public