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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

22-13746

)

(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 B & B Farms

My address is c/o Byron Jensen, 5975 W 3800 S, Rexburg, ID 83440

My phone number is: Work _____ Home (208)356-3521

I am an attorney representing B & B Farms

My name is Scott Campbell with Moffatt Thomas

My address is PO Box 829, Boise, ID 83701-0829

My phone number is (208)345-2000

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: B & B Farms
did not have an interest in the property during the SRBA claims taking period.

☐ 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.)

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 \$200 (\$100 filing fee + \$100 late claim fee, acre fee paid under claim 22-2236A).

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 October 16, 2007
(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 Bonneville

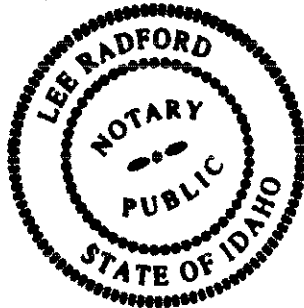
Byron G. Jensen, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Byron G. Jensen
Signature of person filing motion

Scott Campbell
Attorney signing in representative capacity

Subscribed and sworn to before me on July 20, 2007
(Insert Date)



Notary Public for State of Idaho

Residing at: Bonneville County, Idaho

My Commission expires: 1/20/10

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 July 24, 2007, 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

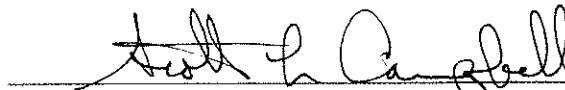
2. Copies to:

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.



Signature of person or attorney mailing the form

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 22-13746
Date Received:
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

B & B Farms
c/o Byron Jensen
5975 W 3800 S
Rexburg, ID 83440

Phone: (208) 356-3521

2. Date of Priority: 01/25/1965

3. Source: Ground Water Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
6N	40E	32	SE NW SW		

5. Description of diverting works: Well, Pump

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.80	140.0

7. Total Quantity Appropriated is:
0.80 CFS

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
6N	40E	32	SW	SE	IRRIGATION	40
Total Acres						40

11. Place of use in counties: Madison

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks: B & B Farms have an option to buy the above listed acres. The property has been farmed since the system was initially developed for right 22-2236. Acres were not licensed because they were not included on the original application. The well also supplies irrigation water to portions of rights 22-2236 and 22-7088. This right, when combined with right 22-2236, shall not exceed the recommended diversion rate for B & B Farm's portion of that right.

15. Basis of Claim: Beneficial

Water Right Number:

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 General Partner of _____ Title

B+B Farms, that I have signed the foregoing Organization

document in the space below as General Partner of Title

B+B Farms and that the statements contained in the Organization

foregoing document are true and correct.

Signature of Authorized Agent

General Partner

Title and Organization

7-20-07

Date

State of Idaho)
County of Bonneville) ss.

Subscribed and sworn (or affirmed) before me this

of 20th day of July 2007

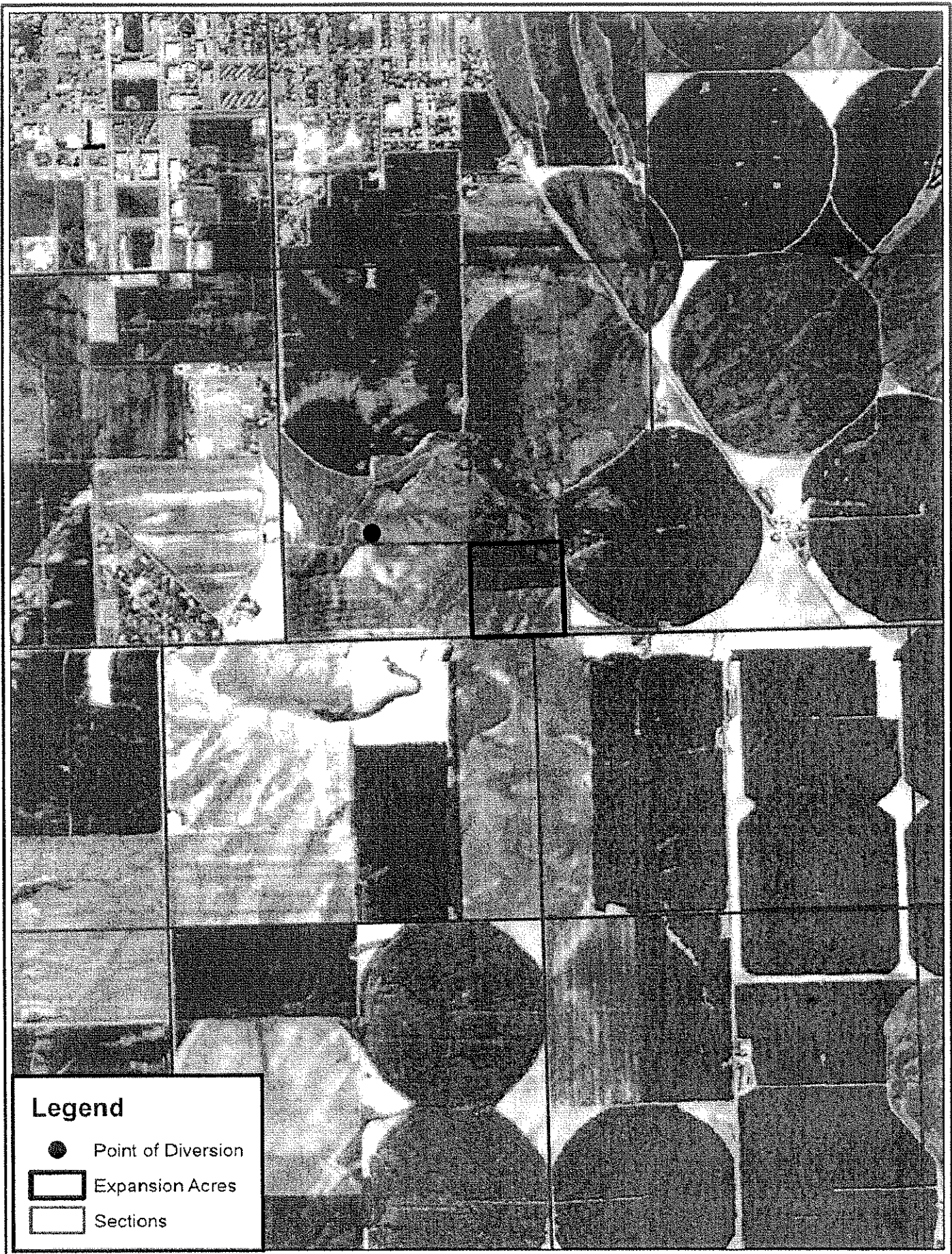
[Signature]

Notary Public

Residing at Bonneville County, Idaho

My commission Expires 1/20/2010





FARM LEASE

This agreement, Made and entered into this 7 day of November, 1997, by and between Stephen Blair Cook and Nancy Cook, husband and wife, of 2914 West Hwy 33, Rexburg, Idaho, 83440, hereinafter called "Landlord," and Byron G. Jensen and Bradley B. Jensen, doing business of B & B Farms, of 5975 West 3800 South, Rexburg, Idaho, 83440, hereinafter called "Tenant."

1. Property Leased

Landlord does hereby lease to Tenant and Tenant hereby leases from Landlord, for farming, the following described real estate located in Madison County, State of Idaho, containing 196 farmable acres, more or less, to-wit:

Steve & Nancy Cook:
Parcel #1

Twp. 6 N., Rge. 40 E., Boise Mer., Madison County, Idaho:
Sec. 31: Part of SE1/4 NE1/4 and part of NE1/4 SE1/4, described as follows:

Commencing at a point 790 feet North of the Southeast corner of NE1/4 SE1/4, and running thence North 28 degrees West 800 feet; thence North 8 degrees East, 212 feet; thence North 29 degrees 20 minutes East 491 feet; thence South 1128.17 feet, more or less, to the point of beginning.

Sec. 32: W1/2 NW1/4, SE1/4 NW1/4, NW1/4 SW1/4, saving and expecting therefrom:

Commencing at the Southwest corner of NW1/4 SW1/4, and running thence North 700 feet; thence East 50 feet; thence South 33 degrees East 834.51 feet; thence West 504.56 feet, more or less, to the point of beginning.
(156 acres)

Thomas Family Trust:
Malad, Idaho
Parcel #2

Twp. 6 N., Rge. 40 E., Boise Mer., Madison County, Idaho:
Sec. 32: SW1/4 SE1/4 (40 acres)

Together with all water rights, improvements and appurtenances, including irrigation well, pump, mainlines, and lateral irrigation lines.

2. Terms of Lease

This lease shall run for a term of ten years, commencing January 1, 1998 and continuing to December 31, 2008.

3. Cash Rental

Parcel 1 & 2 - Tenant shall pay Landlord as cash rent for the Lease, the sum of _____ per year, payable _____ on or before each January 1; _____ on each March 1; _____ on each June 15.
Parcel 1 at _____ per acre.
Parcel 2 at _____ per acre.

4. Farming Expenses and Practices

Tenant at his own expense shall furnish all machinery and equipment; pay all pumping power; provide all work and labor; supply all supplies, seed, sprays, chemicals, and materials; and expend all monies necessary to prepare the soil and plant, grow, harvest, deliver, store, and market all crops.

Crop rotation, irrigation, fertilization, weed control, soil conservation and other farming practices shall be done timely and in accordance with the best farming practices of the locality.

5. Maintenance of Irrigation System

Tenant shall properly care for and provide ordinary service to the pump and mainlines; Landlord shall pay for any necessary repairs to or replacement of pump and mainlines. Tenant shall maintain and keep in good order, condition, and repair, at the expense of Tenant, the lateral irrigation lines and sprinkler heads.

6. Taxes

Landlord shall pay all real property taxes assessed against the leased property.

7. Remedies for default of Tenant

A. In the event Tenant shall fail to comply with any of the covenants, terms, or conditions of this lease (which failure is not corrected by Tenant within 15 days notice in writing by Landlord to Tenant, personally delivered or mailed certified mail, return receipt requested) or shall abandon or vacate the premises, Tenant shall not have the right to continue to occupy the farm the premises, and the Landlord have the right to re-enter and repossess the premises; any payment made by Tenant and Tenant's interest in any crops growing shall be forfeited to Landlord as reasonable liquidated damages.

B. In the event of default of Tenant, Landlord may elect, in lieu of or prior to termination for default, to remedy the default for Tenant and in case Tenant shall forthwith upon demand repay the cost to Landlord with interest at ten percent per annum until repaid.

C. Tenant shall pay all costs, expenses, and reasonable attorneys' fees incurred by Landlord in enforcing the covenants of this lease or collecting damages for the breach thereof, with or without suit, in trial or appellate courts.

D. In addition to the remedies herein recited, Landlord shall also have such other remedies as are afforded in law or equity in event of any breach by Tenant.

8. Remedies for default of Landlord

A. In the event of any default by Landlord hereunder (not corrected by Landlord within 15 days notice in writing by Tenant to Landlord, personally delivered or mailed certified mail, return receipt requested) Tenant at his option may remedy such breach and the costs thereof may be deducted by Tenant, from unpaid rental owing hereunder.

B. Landlord shall pay all costs, expenses and reasonable attorneys' fees incurred by Tenant in enforcing the covenants of this lease or collecting damages for the breach thereof, with or without suit, in trial or appellate courts.

9. Miscellaneous

A. This lease cannot be assigned by Tenant, nor the Premises or any part thereof sublet, without the written consent of Landlord.

B. All the provisions of this lease shall be binding upon the successors, heirs, administrators and assigns of the parties thereof.

C. Landlord shall have the right to enter upon the premises at any reasonable time to inspect and examine any and all parts thereof.

D. Upon termination of the lease, Tenant shall surrender possession of the leased premises, with all leased property, in good condition and repair, ordinary wear and tear expected.

E. The terms "Landlord" and "Tenant" shall be construed as used herein, to include feminine.

10. Preemptive Right to Purchase

Landlord shall not sell, nor contract to sell, the property, nor any part thereof, during the term of this lease, or any renewal thereof, or within nine months after the termination of the lease or renewal thereof, without granting Tenant the first right to purchase, upon the following terms and conditions:

- a. Tenant shall have the right to purchase the property at the termination of the lease. For a price (monies) set by two independent appraisals of the farm to get a "fair market value" or at a price agreed upon by the Landlord and Tenant. Purchase shall be on a twenty year contract.
- b. Tenant shall also have the right to purchase Life Insurance on the Landlord, at a value sufficient to pay the total purchase price.
- c. Both parties mutually agree to execute all documents and take all steps to effectuate the purchase by Tenant from Landlord upon terms and conditions of this contract.
- d. Any sale of the property during the term of this lease, or any renewal hereof, shall be subject to all terms and provisions of this lease.
- e. Present ownership of the property is as follows:
 - (1) Thomas Family Trust, of Malad Idaho, owns the 40 acres designated above.
 - (2) Steven & Nancy Cook of Rexburg Idaho, owns the balance of the property.

Landlord has the right to lease all property in the lease, and will use their best efforts to obtain written consent of the other owner to the preemption right granted to Tenant herein.

IN WITNESS WHEREOF, The parties have executed this lease this 10 day of November, 1997.

"LANDLORD"

Stephen Blair Cook
Stephen Blair Cook

Nancy Cook
Nancy Cook

"TENANT"

Byron G. Jensen
Byron G. Jensen

Bradley B. Jensen
Bradley B. Jensen

State of Idaho

County of Madison

On this ____ day of November, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared Stephen Blair Cook and Nancy Cook, 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.

Notary Public of Idaho.
Residing at Rexburg, Idaho.
My Commission Expires: _____

State of Idaho

County of Madison

On this 7th day of November, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared Syron G. Jensen and Bradley B. Jensen, known to me to be the persons whose names are subscribed to the within instrument and acknowledges 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.


Notary Public of Idaho
Residing at Rexburg, Idaho.
My Commission Expires: 7/3/2003