

T1942 NEELEY

Identification No. 22-0610 ⁰⁶³⁰

Transfer No. 1942

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

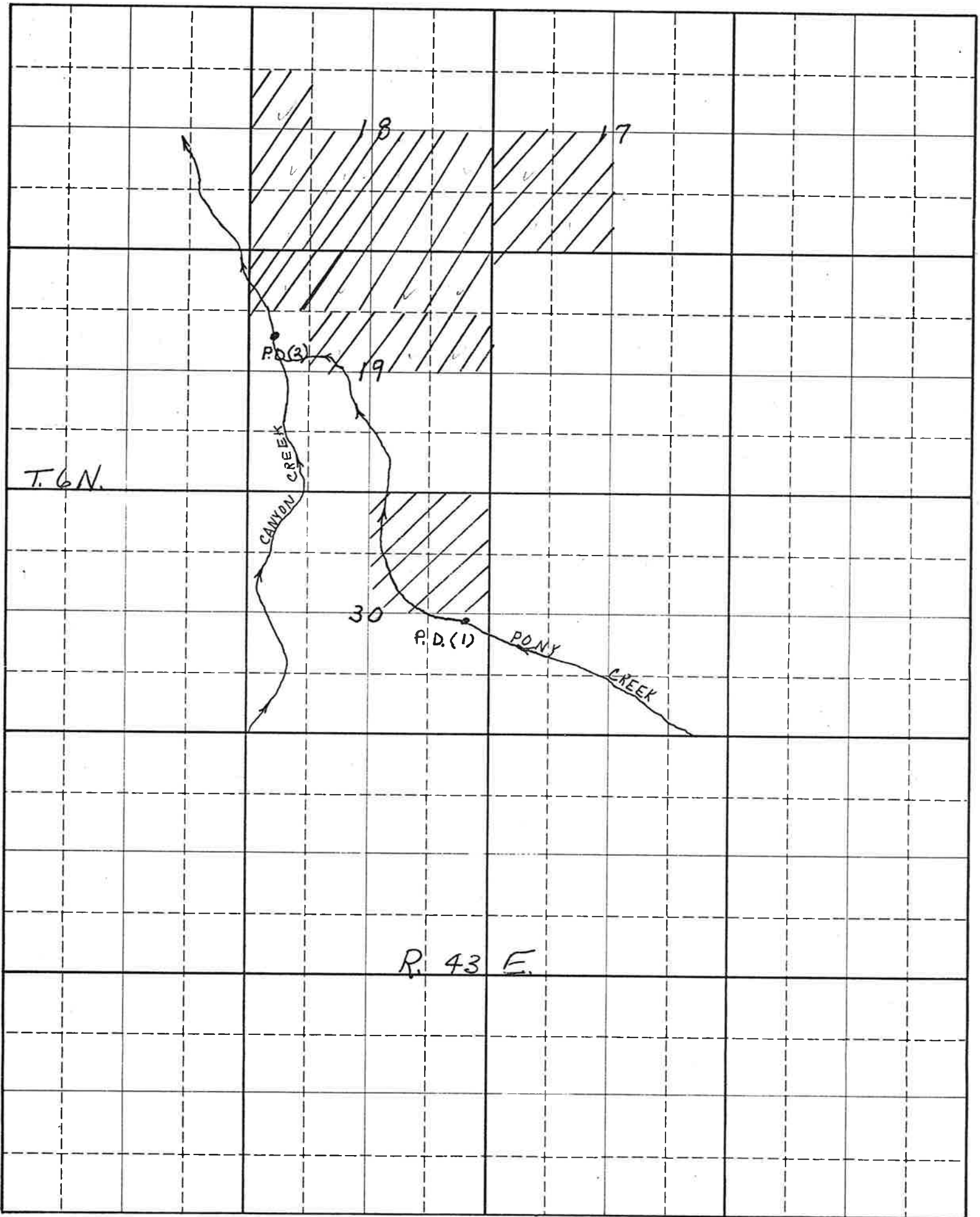
1. Name of Right Holder O. J. Neeley Ranch, Inc.
Post office address P.O. Box 425, Rexburg, Idaho 83440
2. Right obtained by:
a. Decree to O. J. Neeley & Myrtle Neeley in Case of O. J. Neeley & Myrtle Neeley
his wife -vs- (Name) Phebe Browning his wife and Morris Slaymaker & Thelma Slaymaker,
vs. George Browning &, Dated 5/21/54 in 9th Judicial District
his wife (Name of Court)
Court. County of Madison
- b. License No. _____ issued by the State of Idaho, Department of Reclamation.
3. Source of water Pony Creek tributary to _____
(Name of stream or source)
4. Date of Priority June 15, 1900
5. Amount of water a. 8.7 c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for Irrigation from May to July
(Month, Day) (Month, Day)
7. Original location of point of diversion is SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33,
Township 6N, Range 43E, B.M., in Teton County;
Additional points of diversion, if any _____

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6N	43E	32	25	35	40	40			36	40									216
		19	40	40	40	40	40	40	40	40									320
		31						40											40
		30	40	25		25					40			20	35	15	30	40	270

Total number of acres presently irrigated 846

Paul H.
22-0610



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

9. If applicant was not the original holder of this right explain how it was acquired: _____

Acquired with purchase of property from Morris Slaymaker & George Briggs Estate

10. CHANGE IN POINT OF DIVERSION Right to be diverted at two points:

- (1) 1.35
a. Quantity to be diverted at new point: (2) 7.35 c.f.s. and/or _____ acre feet
NE SE 30
b. New point of diversion: SW 1/4 NW 1/4, Section 19, Township 6N
43E, Range Madison, B.M.
c. Description of method of diversion and conveyance from new points of diversion: (1) 75 Hp pump & water winch (2) 600 Hp motor and pump to underground main to three pivot sprinkler systems, one water winch, & 4 wheel lines.

- d. Is water to be conveyed to the lands previously irrigated? Yes ☒ No _____

If not, the place of use should be changed below.

- e. Describe the reasons for applying for a change in the point of diversion:

To make better & more efficient use of
the water

- f. Do you intend to make the transfer permanent? Yes _____

- g. Do you intend to abandon completely the old point of diversion? Yes _____

- h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

- a. Describe the new lands on which you wish to use your right.

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6N	43E	19	40	40	40	40	40	28		34									262
		30	40	25	10	25													100
		18							28		40	28	28	40	40	40	40	40	324
		17									40	40	40	40					160

b. Do you intend to make the transfer permanent? Yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

Lands in N $\frac{1}{2}$, Sec. 19 & NE $\frac{1}{4}$, Sec. 30, T. 6N, R. 43E, will still be irrigated.

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: None

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

C. W. J. Miller

(signature of applicant)

Subscribed and sworn to before me this 26th day of September, 19 74

Ernest R. Butler
(notary public)

My commission expires Aug. 16, 1977

**ACTION OF STATE RECLAMATION ENGINEER
AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0610B,
and said application is hereby APPROVED

1. Approval of said application is subject to the following limitations and conditions:

Pursuant to the Memorandum Decision and Order of February 25, 1975.

2. Denial of said application is for the following reasons:

Witness my hand this 25 day of February, 19 75

R. Karl L. ...
DIRECTOR

FOR DEPARTMENT USE ONLY

Received by MB Date 9-26-74

Prelim. check by JF Date 9-26-74

Fee received by MB Date 9-26-74 Fee \$ 30.00

Approved for publication by MB 10-15-74 # 13075

Published in Little Rock Journal Dates Oct 3 & 10, 1974

Hearing held

Watermaster Recommendation sent W.D.#01 Act Larson

Protest filed by: Date

J. Wayne Steward 10-9-74
Therese Madison 10-21-74
John W. ...

FROM Colleen

DATE March 22, 1974

TO File

SUBJECT Claim No. 22-4003

An application for transfer was filed on this claim No. 22-4003. The application for transfer was relinquished by the applicant this date, but the claim is still active on the department's records.

T 1785

M E M O R A N D U M

TO: File No. 22-4003, Claim to a Water Right

FROM: Norman C. Young

DATE: November 9, 1973

RE: Field Inspection of Claim No. 22-4003

T 1785

A field inspection was made on October 19, 1973, by myself accompanied by Owen J. Neeley, the claimant. This inspection was necessary because an Application for Transfer of Water Right has been filed to change the point of diversion and the place of use. The application for transfer has been protested.

43E

The point of diversion is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, T. 6N, R. 34E, in Teton County. The point of diversion as listed on the claim is in error and the advertising of the claim was made in the wrong county. The ditch heads and the canyon of Pony Creek is approximately 1 mile above the first land irrigated from it. The ditch is approximately 4 feet wide at the top and 1 foot deep. A measurement of the slope of the ditch was not made. At the time of the inspection, the claimant indicated that the ditch was much larger when actively used and maintained. The last time it was maintained was approximately 4 years ago. At the time of the visit, an estimated $\frac{1}{2}$ c.f.s. was flowing in Pony Creek and all of it was being diverted into the ditch.

The place of use: The claimant indicated that the following land was irrigated in the summer of 1969 by either surface or sprinkler methods: Section 32...NE $\frac{1}{4}$ NE $\frac{1}{4}$, 24 acres; NW $\frac{1}{4}$ NE $\frac{1}{4}$, 38 acres; SW $\frac{1}{4}$ NE $\frac{1}{4}$, 35 acres; SE $\frac{1}{4}$ NE $\frac{1}{4}$, 39 acres; SW $\frac{1}{4}$ NW $\frac{1}{4}$, 4 acres; SE $\frac{1}{4}$ NW $\frac{1}{4}$, 20 acres. Section 30...NE $\frac{1}{4}$ SE $\frac{1}{4}$, 20 acres; SE $\frac{1}{4}$ SE $\frac{1}{4}$, 40 acres. Section 31...NE $\frac{1}{4}$ NE $\frac{1}{4}$, 20 acres, for a total of 240 acres.

Copies of the aerial photos showing the fields irrigated in the last 5 years, as indicated by the claimant are attached. He indicated that other land had been irrigated in the past, but not the last 5 years. He also indicated that some of the land irrigated on the claim had never been irrigated. He specifically pointed out the N $\frac{1}{2}$, Sec. 19, T. 6N, R. 43E, B.M. as having never been irrigated, to his knowledge.

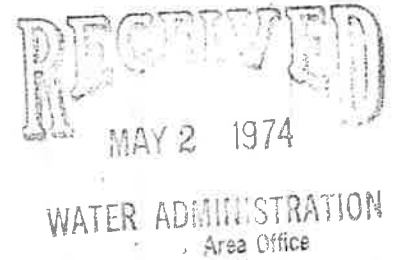
NCF

J. KENT JOLLEY
W. BRENT EAMES

LAW OFFICES
JOLLEY & EAMES
P. O. BOX 306
REXBURG, IDAHO 83440

39 PROFESSIONAL PLAZA
TELEPHONE (208) 856-7276

April 30, 1974



Mr. Ron Carlson
Assistant to District Engineer
Department of Water Administration
1515 Lincoln Road
Idaho Falls, Idaho 83401

RE: Owen J. Neeley Ranch, Inc.

Dear Mr. Carlson:

I am enclosing a copy of a Stipulation Agreement between O. J. Neeley Ranch, Inc., and George Browning, wherein Mr. Browning withdraws protest of Neeley's application for transfer of water right.

This agreement also provides that the Brownings agree to allow Neeley Ranch the use of all the waters of Pony Creek during the spring up until Mr. Browning begins to irrigate his hay.

I received a copy of Notice of Protest by the Fremont-Madison Irrigation District. We would like a hearing held in this matter as soon as possible.

Thank you for your assistance.

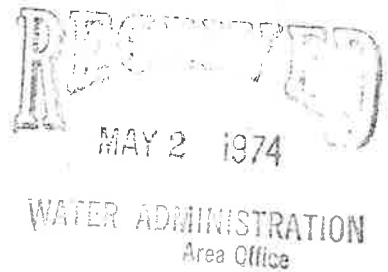
Yours very truly,

JOLLEY & EAMES

A handwritten signature in cursive script, appearing to read "Brent", written over the printed name "W. Brent Eames".

W. Brent Eames

W. Brent Eames
JOLLEY & EAMES
Attorneys at Law
P. O. Box 306
Rexburg, Idaho 83440



BEFORE THE DEPARTMENT OF WATER ADMINISTRATION FOR
THE STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST)	
APPROVAL OF APPLICATION FOR	STIPULATION AGREEMENT
TRANSFER CLAIM TO WATER RIGHT)	
#22-4003 IN THE NAME OF O. J.	
NEELEY RANCH, INC.)	

The applicant, O. J. NEELEY RANCH, INC., having filed with this department an application to change the point of diversion and place of use of the above claim to a water right, and George H. Browning having filed a protest against approval of said application for the purpose of clarifying the ownership of the waters in Pony Creek;

The parties involved, O. J. Neeley Ranch, Inc., and George Browning and Phebe Browning stipulate and agree to the following:

1. The parties acknowledge and hereby refer to a decree dated May 21, 1954, wherein it was decreed that the maximum flow of Pony Creek was approximately 960 miner's inches of water; that O. J. Neeley and Myrtle Neeley were vested with title to 435 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time. And that George Browning and Phebe Browning, husband and wife, were vested with title to 300 miner's inches of water, such interest to be decreased proportionately with a decrease in the total flow.

And that Morris Slaymaker and Thelma Slaymaker were vested with 225 miner's inches of the waters of Pony Creek, such interest to be decreased proportionately to any decrease in the total flow.

2. That the applicant, O. J. NEELEY RANCH, INC., has purchased all title and interest to the waters of Pony Creek which were vested in O. J. Neeley and Myrtle Neeley, husband and wife, and in Morris Slaymaker and Thelma Slaymaker, husband and wife.

3. That George Browning and Phebe Browning continue to have all right, title and interest in and to 300 miner's inches out of the maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.

4. That George Browning and O. J. Neeley Ranch, Inc., have for over five years last past diverted and used the full flow of the waters of Pony Creek for domestic and agricultural purposes.

5. That as between the parties, except as provided in paragraph 6, O. J. Neeley Ranch, Inc., is vested with title to 660 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, or $11/16$ ths of the flow at any given time, such interest to be decreased proportionately to any decrease in the total flow of water at any given time, and that George Browning and Phebe Browning are vested with title to 300 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, or $5/16$ ths of the flow at any given time, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.

6. That George Browning and Phebe Browning agree to allow O. J. Neeley Ranch, Inc., the use of all the waters of Pony Creek during the spring of each year up until the time that the Brownings begin to irrigate. When the Brownings begin to irrigate then each

of the parties shall have the right to use their respective shares as provided in paragraph 5. At that point in time when the waters of Pony Creek no longer reach Canyon Creek, then the Brownings shall have full use of said waters except for what O. J. Neeley Ranch, Inc., needs to water its stock. It is further agreed that O. J. Neeley Ranch, Inc., shall open a roadway to the point of diversion of said waters for the use by both parties and shall install a dividing gate at the point of diversion in order that the waters may be divided as agreed herein.

7. That George Browning and Phebe Browning withdraw the protest filed against the application of O. J. Neeley Ranch, Inc. for the transfer of water right, No. 22-4003, ²²⁻⁰⁶¹⁰ and ^{GHB}waiver further protest on the condition that their water rights are not lost or injured in any way by said transfer.

8. That the parties agree to be bound according to the above referenced decree regardless of whether any rights under the decree are transferred.

Dated this 18th day of February, 1974.

O. J. NEELEY RANCH, INC.

By Owen J. Neeley
Its President

Geo B Browning
George Browning

Phebe Browning

STATE OF IDAHO,)
 SS.
County of Madison.)

On this 18th day of February, 1974, before me, the undersigned, Notary Public in and for said State, personally appeared

OWEN J. NEELEY, known to me to be the President of the corporation that executed the 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 the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Rexburg, Idaho
My Commission Expires: 10/8/74

STATE OF IDAHO,)
 SS.
County of Madison.)

On this 25th day of ^{April}~~February~~, 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared GEORGE BROWNING ~~and PHEBE BROWNING~~, 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 official seal the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Rexburg, Idaho
My Commission Expires: 10/8/74