

RECEIVED**JAN 24 2013**Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78389**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**Name of Applicant(s) Scott Tyler and/or Eunice Tyler Phone (208)768-2404Mailing address 762 Lee Creek Road Leadore Idaho 83464 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☒ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

- ☒ No Representative

Name of Representative _____ Phone _____

Mailing address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. This application proposes split a portion of 74-284B, change the POD and update the ownership. The split portion will be combined with other rights into one large place of use.

per telephone w/ Eunice 2/5/2013, Add Point of Diversion,
Not change. Km **78389**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part					
☒ ☐	74-957	.94 cfs	Irrigation	03/15 to 11/15	Springs/Mill Creek
☒ ☐	74-955	2.5 cfs	Irrigation	03/15 to 11/15	Mill Creek/Lemhi River
☐ ☒	74-284B	1.35 cfs	Irrigation	03/15 to 11/15	Mill Creek/Lemhi River
☐ ☐		.25 cfs	Irrigation	03/15 to 11/15	Mill Creek/Lemhi River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 3.69 cfs and/or ac-ft

2. Total amount of water proposed to be transferred or changed .66 cubic feet per second and/or acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
Label it **Attachment #5.**

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Yes	2		SE	NE	15	16N	24E	Lemhi	Mill Creek	Quinn Ditch
								*****Change only	applies to split portion of	74-284B*****
	2		SE	NE	15	16N	24E	Lemhi	Mill Creek	Carlson Ditch

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	24E	12			14	2				30	34			17	13.5	40	7	1	158.5

Total Acres (for irrigation use) 158.5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Open ditches to mainline to the pivots and open ditches to flood irrigation

- b. Who owns the property at the point(s) of diversion? BLM

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Historical easement

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien:

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

No change to total acres, application combines the place of use. 13.5 acres from 74-284B will be split off and combined with applicants rights. The 13.5 acres currently overlap the applicants property and are located in Sec12 of the NESE quarter.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☒ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe:

78389

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 74-284B

Current Owner: RICHARD L TYLER
MARGARETE E TYLER
Priority Date: 9/24/1909
Origin: Adjudication Recommendation
Status: Active
Basis: Decreed

Source

MILL CREEK

Tributary

LEMHI RIVER

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Diversion Rate

1.6 CFS

Annual Volume

Total Diversion

1.6 CFS

Location of Point(s) of Diversion

MILL CREEK

LEMHI County

L2(SE1/4NE1/4)

Sec. 15, Twp 16N, Rge 24E B.M.

Place of Use

IRRIGATION Within LEMHI County

T16N R24E S12

NESE

40.00

T16N R25E S7

SWSE

29.00

T16N R25E S18

Lot 1

NWNW

17.00

Total Acres: 86

Conditions of Approval:

1. E64 This right authorizes the irrigation of 85.7 total acres.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 74-955

Current Owner: SCOTT TYLER
EUNICE TYLER

Priority Date: 5/15/1914

Origin: Water Right

Status: Active

Basis: Decreed

Source

MILL CREEK

Tributary

LEMHI RIVER

Beneficial Use

IRRIGATION

From To

03/15 to 11/15

Diversion Rate

2.5 CFS

Annual Volume

Total Diversion

2.5 CFS

Location of Point(s) of Diversion

MILL CREEK

L2(SE1/4NE1/4)

Sec. 15, Twp 16N, Rge 24E B.M.

LEMHI County

Place of Use

IRRIGATION Within LEMHI County

T16N R24E S12	SENW	2.00	T16N R24E S12	NESW	27.00
T16N R24E S12	SESW	13.00	T16N R24E S12	NWSE	40.00
T16N R24E S12	SWSE	11.00			

Total Acres: 93

Conditions of Approval:

1. E64 This right authorizes the irrigation of 93.6 total acres.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 7/9/2007

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 74-957

Current Owner: SCOTT TYLER
EUNICE TYLER

Priority Date: 10/7/1916

Origin: Water Right

Status: Active

Basis: Decreed

Source

SPRINGS

Tributary

MILL CREEK

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION 03/15 to 11/15
Total Diversion

0.94 CFS
0.94 CFS

Location of Point(s) of Diversion

SPRINGS

SW1/4SW1/4 Sec. 12, Twp 16N, Rge 24E B.M.

LEMHI County

Place of Use

IRRIGATION Within LEMHI County

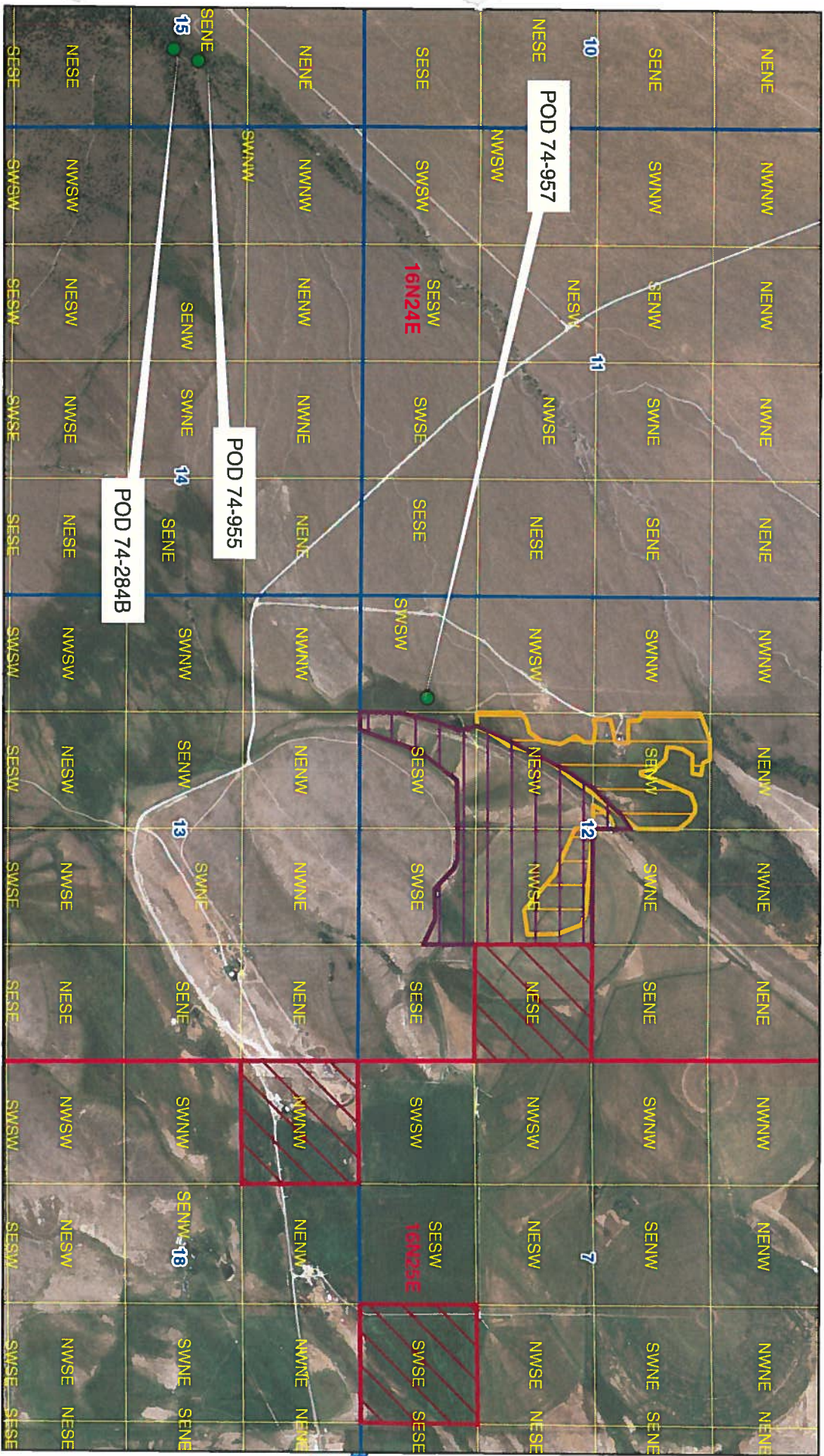
T16N R24E S12	SENW	25.00	T16N R24E S12	NESW	10.00
T16N R24E S12	NWSE	11.80			

Total Acres: 46.8

Conditions of Approval:

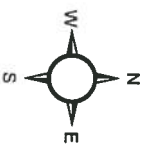
1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 7/9/2007



Tyler Transfer #2 Existing Place of Use and Point of Diversion

- 74-284B
- 74-955
- 74-957
- Sections
- Township/Range
- QQ



2011 Aerial Photography



WARRANTY DEED

State of Idaho)
County of Lemhi) SS No. **279468**
This instrument was filed for record at the request
of Alliance Title
at 2:00 o'clock P. m. 4-23 2009
and duly filed and indexed in the records of Lemhi
County Terri J. Morton
Ex-Officio Recorder
By Eunice Carden Deputy
Fee 9.00
Return to A.T.

Order No.: IND

FOR VALUE RECEIVED

Margarete E. Tyler and Karl Lee Tyler, Co-Trustees under the Margarete (Margy) Tyler Living Trust, dated August 31, 2005

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Scott Tyler and Eunice Tyler, husband and wife

whose current address is

762 Lee Creek Road, Leadore, ID 83464

the grantee(s), the following described premises, in County, Idaho, TO WIT:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 27 Mar 2009

Margarete E. Tyler
Margarete E. Tyler, Co-Trustee

Karl Lee Tyler
Karl Lee Tyler, Co-Trustee

State of Idaho }
} ss.
County of Lemhi }

On this 27th day of March, 2009, before me, a Notary Public in and for said state, personally appeared Margarete E. Tyler known or identified to me to be the person whose name is subscribed to the foregoing instrument as co-trustee of the Margarete (Margy) Tyler Living Trust, and acknowledged to me that she executed the same as Co-Trustee.

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

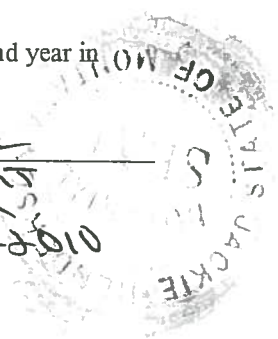
78380

[Signature]
Notary Public for the State of Idaho
Residing at: Salmon

State of _____ }
County of _____ } ss.
_____ }

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 the State of MT
Residing at: Missoula
Commission Expires: 5-20-2010



Taylor Mountain Surveying
301 Waller Street
Salmon, Idaho 83467
(208) 756-8321

Margarete Tyler Trust to Scott and Eunice Tyler

A portion of the NE1/4SE1/4 Section 12, T 16 N, R 24 E, Boise Meridian, Lemhi County, Idaho more particularly described as follows:

Commencing at the SE Corner of said Section 12 from which the SE Corner of Section 13, T 16 N, R 24 E, Boise Meridian bears S00°17'56"E, 5285.40 feet the Basis of Bearing of this description; run thence S89°42'04"W, 1316.70 feet to the East 16th Corner of said Sections 12 and 13;

Thence N00°21'35"W, 1318.94 feet to the SE 1/16th Corner of said Section 12 said point being the Point of Beginning;

Thence N00°21'35"W, 1318.94 to the C-E 1/16th Corner of said Section 12;

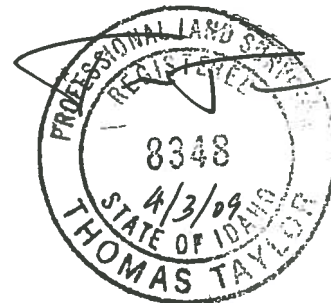
Thence N89°36'38"E along the Northerly line of said NE1/4SE1/4 Section 12, 442.46 feet;

Thence leaving said northerly line S00°21'57"W, 1319.40 feet to a point on the southerly line of said NE1/4SE1/4 Section 12;

Thence S89°39'19"W along the southerly line of 425.75 feet to the Point of Beginning.

Said parcel contains 13.15 acres.

Said parcel **does not constitute a separate building parcel** and is to be included with lands currently owned by Scott and Eunice Tyler, the E1/2SW1/4, W1/2SE1/4 and the SE1/4NW1/4 of said Section 12.



GENERAL POWER OF ATTORNEY

Know all men by these presents, that I, Richard L. Tyler, the undersigned, of HC 68 BOX 14 (10 miles west on LEE Creek Rd) City of LEADORE, County of LEMHI, State of Idaho, do hereby make, constitute, and appoint Margaret E. Tyler of HC 68 BOX 14, City of LEADORE, County of LEMHI, State of Idaho, my true and lawful attorney in fact for me and in my name, place, and stead, and on my behalf, and for my use and benefit:

1. To exercise or perform any act, power, duty, right, or obligation whatsoever that I now have, or may hereafter acquire the legal right, power, or capacity to exercise or perform, in connection with, arising from, or relating to any person, item, transaction, thing, business property, real or personal, tangible or intangible, or matter whatsoever;
2. To request, ask, demand, sue for, recover, collect, receive, and hold and possess all such sums of money, debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension and retirement benefits, insurance benefits and proceeds, any and all documents of title, choses in action, personal and real property, intangible and tangible property and property rights, and demands whatsoever, liquidated or unliquidated, as now are, or shall hereafter become, owned by, or due, owing, payable, or belonging to, me or in which I have or may hereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in my name for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to make, execute, and deliver for me, on my behalf, and in my name, all indorsements, acquittances, releases, receipts, or other sufficient discharges for the same;
3. To lease, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, purchase, exchange, and acquisition of, and to accept, take receive, and possess any real or personal property whatsoever, tangible or intangible, or interest thereon, on such terms and conditions, and under such covenants, as said attorney in fact shall deem proper;

4. To maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens, mortgage, subject to deeds of trust, and hypothecate, and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I now own or may hereafter acquire, for me, in my behalf, and in my name and under such terms and conditions, and under such covenants, as said attorney in fact shall deem proper;

5. To conduct, engage in, and transact any and all lawful business of whatever nature or kind for me, on my behalf, and in my name;

6. To make, receive, sign, indorse, execute, acknowledge, deliver, and possess such applications, contracts, agreements, options, covenants, conveyances, deeds, trust deeds, security agreements, bills of sale, leases, mortgages, assignments, insurance policies, bills of lading, warehouse receipts, documents of title, bills, bonds, debentures, checks, drafts, bills of exchange, letters of credit, notes, stock certificates, proxies, warrants, commercial paper, receipts, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of, banks, savings and loan or other institutions or associations, proofs of loss, evidence of debts, releases, and satisfaction of mortgages, liens, judgments, security agreements and other debts and obligations and such other instruments in writing of whatever kind and nature as may be necessary or proper in the exercise of the rights and powers herein granted.

7. To subscribe for and to purchase in my name, any and all shares of stock of any corporations formed or to be formed, and to pay for such shares of stock in cash, by promissory notes, negotiable or nonnegotiable, or such other commercial paper payable at such time and in such manner as my attorney in fact shall in his absolute discretion determine.

8. To sell, transfer, and assign any and all share of the capital stock standing in my name in the transfer books of any corporation, and to receive the consideration therefor, and to issue a receipt or receipts for the same, and, pursuant thereto, to make and execute all necessary acts of assignment and transfer pursuant to such authority and to receive all stock certificates representing such stock and to receive all dividends that are or shall be payable to me on the shares of such stock indorsed to and standing in my name on the books of such corporation.

9. I grant to said attorney in fact full power and authority to do, take, and perform all and every act and thing whatsoever requisite, proper, or necessary to be done, in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that said attorney in fact, or his substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted.

10. This instrument is to be construed and interpreted as a general power of attorney. The enumeration of specific items, rights, acts, or powers herein is not intended to, nor does it, limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers herein granted to said attorney in fact.

11. The rights, powers, and authority of said attorney in fact herein granted shall commence and be in full force and effect on 10-29-98, and such rights, powers, and authority shall remain in full force and effect until revoked, in writing, by myself, the undersigned. This power of attorney shall not be affected by subsequent disability or incapacity of the principal, Richard L. Tyler.

DATED this 30 day of Oct., 1998.

Richard L. Tyler

STATE OF IDAHO)
COUNTY OF Lamb) SS.

On this 30th day of October, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard L. Tyler, an individual, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.

Larri J. Morton

Notary Public

Residing at: Salmon

Commission Expires: 4-25-02

Copy

FIRST CODICIL
TO LAST WILL AND TESTAMENT
OF
RICHARD L. TYLER

I, RICHARD L. TYLER, of Leadore, Lemhi County, Idaho, hereby make, publish and declare this to be the First Codicil to my Last Will and Testament, which was executed by me on March 4, 1980.

FIRST: I give, devise, and bequeath to my wife, Margarete E. Tyler, including the amounts given to her in my present Will, the amount by which my estate at the time of my death exceeds the amount of the Exemption Equivalent created by the Unified Credit granted by the Federal Estate Tax Law in effect at the time of my death. It is my purpose in making this bequest to reduce the Federal Estate Tax upon my estate to zero if my wife survives me, and all of the provisions of my Will and this Codicil shall be interpreted and applied to accomplish my declared purpose.

SECOND: In the event of a conflict between the provisions of my said Will and the Trust therein created, and this Codicil, the provisions of this Codicil shall govern.

THIRD: Except as herein expressly amended, I hereby republish, ratify and confirm without change my said Will dated March 4, 1980, and my said Will and the trust therein created shall remain in full force and effect and as amended by this Codicil, shall be my last Will and Testament.

IN WITNESS WHEREOF, I, RICHARD E. TYLER, the Testator, sign my name to this instrument this 20th day of

78380

FILED & FILED

FUREY & FUREY

ATTORNEYS AT LAW

116 N. CENTER STREET P.O. BOX 1127
SALMON, IDAHO 83467
(208) 756-2577