

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 72801APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant James & Paula Whittaker Phone (208) 768-2491Post Office address 83 Big Eight Mile Road Leadore, ID 83464

RECEIVED

APR 26 2006

Department of Water Resources
Eastern Region

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 the reason for the proposed changes It takes the water out higher up the creek, allowing us to put in a gravity irrigation system, instead of having to run a pump

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>74-345</u>	<u>12/6/1909</u>	<u>7.04</u>	<u>Irrigation</u>	<u>3/15</u> to <u>11/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred _____ cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Big Eightmile Creek tributary to Lemhi River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
Present	SW	SE	28	16N	25E	Lemhi	Herman's Ditch	
Added	SE	NE	5	15N	25E	Lemhi	Ted's Ditch	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>16N</u>	<u>25E</u>	<u>26</u>	<u>40.0</u>		<u>40.0</u>	<u>90.0</u>	<u>40.0</u>		<u>40.0</u>	<u>40.0</u>	<u>40.0</u>						<u>32.0</u>	<u>39.0</u>	<u>311.0</u>

Total Acres 311.0

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PART 1

6. General Information:

a. Description of diversion system lockable headgates AND open ditch's
both places

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
N/A Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

N/A

d. Remarks:

We're just adding a POD

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And the said application is hereby _____, subject to the following conditions:

Witness my hand this _____ day of _____, 20 _____.

 For the Director

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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 74-345 V1

WATER RIGHT NUMBER: 74-345 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GUARDIAN LTD PARTNERSHIP NO 1 737 S CAPITOL IDAHO FALLS, ID 83402 (208)227-9008
Original Owner	DONALD O PETERSON PO BOX 144 LEADORE, ID 83464
Original Owner	BILLIE PETERSON PO BOX 144 LEADORE, ID 83464

Priority Date: 12/06/1909

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG EIGHTMILE CREEK	LEMHI RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	7.040 CFS	
	<u>Total Diversion:</u>	7.040 CFS	

Location of Point(s) of Diversion

BIG EIGHTMILE CREEK	SW1/4SE1/4	Sec. 28, Twp 16N, Rge 25E, B.M.
LEMHI County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
16N	25E	26	40.0		40.0	40.0			40.0	40.0	40.0				40.0			32.0	39.0	311.0

Total Acres: 311

Conditions of Approval:

1. M04 A MEASURING DEVICE AND LOCKABLE CONTROLLING WORKS OF A TYPE ACCEPTABLE TO IDWR SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS A PART OF THE DIVERTING WORKS.
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.

Remarks:

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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 74-345 V1

Comments:

1. rbrown 1/26/2004 Recommendation
Comment: based on transfer #3221, approved 1/20/1986

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number: 74Z
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary			01/26/2004	rbrown	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Summary	1/26/2004 10:21:23 AM	rbrown	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POU	2/5/2003 3:28:29 PM	dsmith	Created polygon from PLS
POU	2/5/2003 3:42:32 PM	dsmith	Edited shape boundary
POD	2/5/2003 3:48:07 PM	dsmith	Edited point location

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right as evidenced by:

- a. Decree No. 74-345 Decreed to Guardian LTO Partnership No. 1
in case of STATE OF IDAHO vs. Guardian LTO Partnership No. 1
dated 1-19-2006 in Lemhi county of IDAHO
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☒ Other see attached
3. Source of water Big Eightmile Creek tributary to Lemhi River4. Date or priority 12-6-1909

5. Water is used for the following purposes:

amount 7.04 cfs for irrigation purposes from 3/15 to 11/15
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

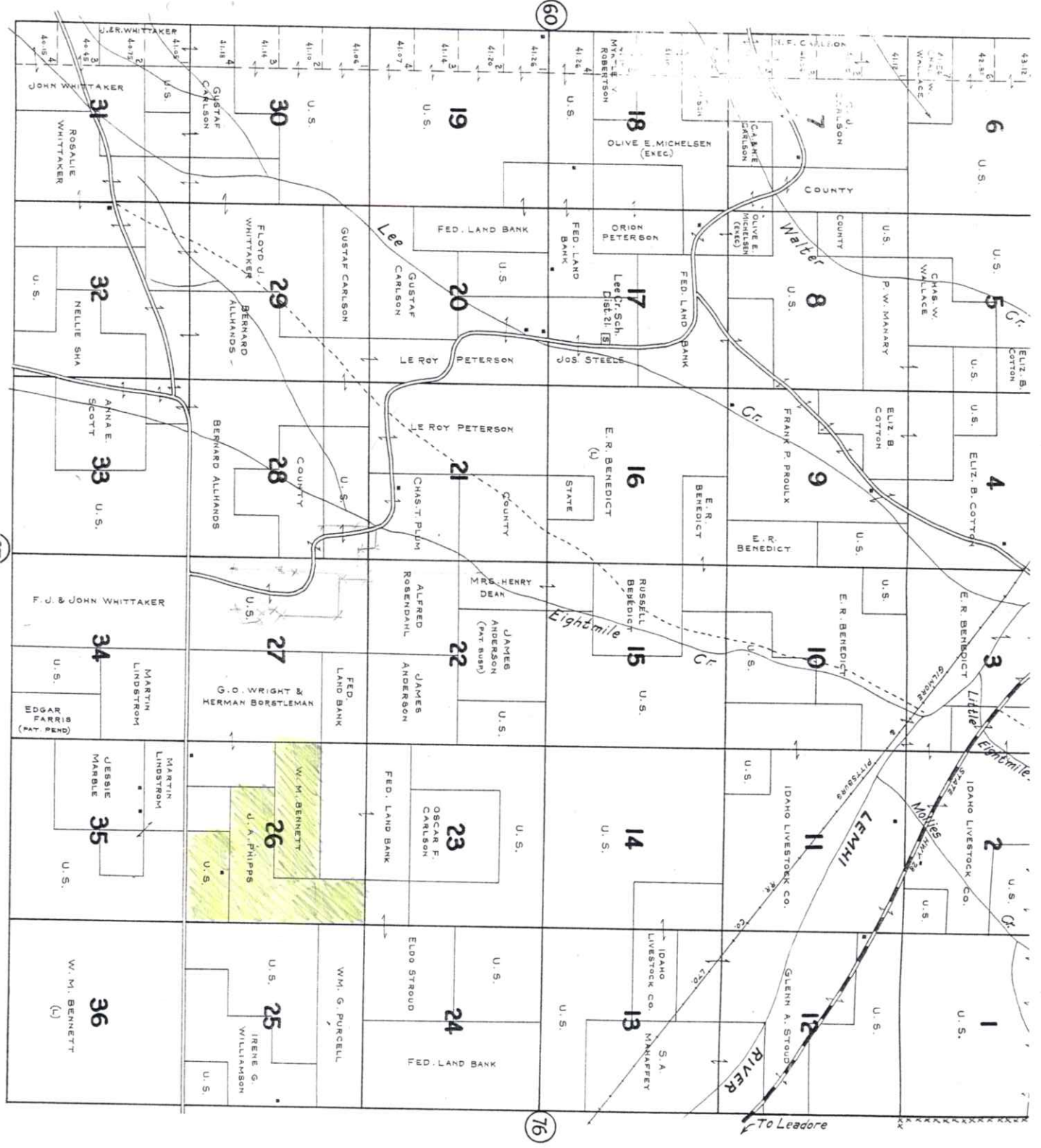
7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		SW	SE	28	16N	25E	Lemhi	

8. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	26		40	40	40			40	40	40						32 40	39	311

Total Acres 3119. Describe any other water rights used for the same purpose as described above none



--LEGEND--
 PAVED ROADS
 STATE HWYS. UNPAVED
 IMPROVED ROADS
 DIRT ROADS
 INTERIOR ROADS
 RAILROADS
 TRAILS

T16N R25E
 Boise Meridian,
 Lemhi County,
 Idaho

PART 3**B. CHANGES IN NATURE OF USE**

1.	<u>New Nature of Use</u>	<u>Amount(cfs/af-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

2. Quantity and quality of return flows and location of discharge: _____

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. 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 voiding its approval.

James W. H. H. H.
(Signature of Applicant)

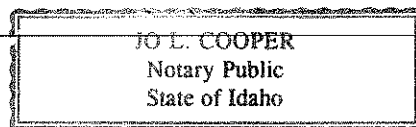
Subscribed and sworn to before me this 25th day of April, 20 06

J. L. Cooper
(Notary Public)

MY COMMISSION EXPIRES
October 24, 2009

BONDED THRU NOTARY PUBLIC UNDERWRITERS

My commission expires _____

**FOR DEPARTMENT USE ONLY**

Transfer contains 8 pages and 3 attachments

Received by _____ Date _____ Protest filed by _____

Prelim. Check by _____ Fee 530-

Receipted by SL Date 4/27/06 E031832

Published in Recorder Herald Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendations requested on _____ Recommended for ☐ approval ☐ denial

_____ received _____ by _____

Copy of transfer sent to lien holder _____

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	74-345				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Guardian Limited Partnership #1
737 S. Capitol Idaho Falls, ID 83402
4. New Owner/Claimant(s) James & Paula Whittaker
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 83 Big Eight Mile Road
- City, State and ZIP Code Leadore, ID 83464
- New Telephone Number (208)-768-2491
5. Date you acquired the property April 14, 2006

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

James Whitaker

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

T 72801
ATTACHMENT 2 OF 3

NOTICE OF LAND PURCHASE AGREEMENT

NOTICE IS HEREBY GIVEN, that by written agreement dated the 23rd day of May, 2005, the undersigned GUARDIAN LIMITED PARTNERSHIP #1, Lemhi County, Idaho, have agreed to sell the following described property to JAMES AND PAULA WHITTAKER, of Leadore, Lemhi County, Idaho, 83464, Buyer, said parties have agreed to, at their own choosing, have the option to transfer said property through a qualified 1031 intermediary,

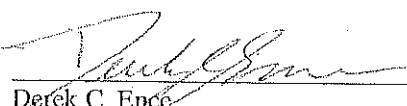
The property being transferred under the terms of said written Contract of Sale is described as follows, to-wit:

Township 16 North, Range 25 East, Boise Meridian, Lemhi County, Idaho:

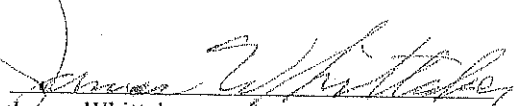
Section 26: Northeast Quarter of the Northeast Quarter (NE1/4NE1/4), South Half of the North Half (S1/2N1/2); Northeast Quarter of the Southwest Quarter (NE1/4SW1/4); North Half of the Southeast Quarter (N1/2SE1/4) and the South Half of the Southeast Quarter (S1/2SE1/4).

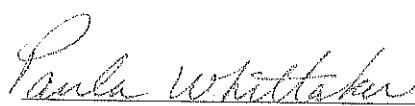
IT IS understood and agreed, that this instrument is for the purpose of giving notice of the above mentioned Contract of Sale.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.


Derek C. Ence
GUARDIAN LIMITED PARTNERSHIP #1,
BALL ENTERPRISES
SELLER

Casey Hopper-Vice President
Reverse Exchange Services, Inc.
Member-REX-451 LLC


James Whittaker
READ AND APPROVED

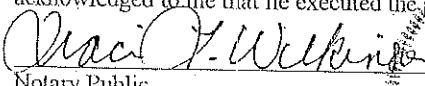

Paula Whittaker

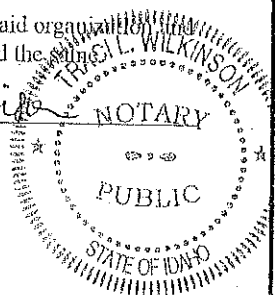
STATE OF IDAHO, COUNTY OF

On this 13th Day of April, 2006,
before me, a notary public in and for said State, personally
appeared.

Derek C. Ence, Secretary of Guardian Limited
Partnership No. 1, Ball Enterprises, Inc.

known to me to be the Secretary of said organization, who
acknowledged to me that he executed the foregoing instrument.


Maci K. Wilkinson
Notary Public
Residing at: Idaho Falls, ID
Comm. Expires: 3/20/09



STATE OF IDAHO, COUNTY OF

On this Day of April, 2006,
before me, a notary public in and for said State,
personally appeared

James and Paula Whittaker

known to me to be the person(s) whose names are
subscribed to the within instrument, and acknowledged
to me that they executed the same.

Notary Public
Residing at:
Comm. Expires: