

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 10/06/03 03:33 PM
DEPUTY Jamie Parsons
RECORDED - REQUEST OF
Timberland Estates
AMOUNT 48.00



TIMBERLAND ESTATES SUBDIVISION

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by J. RAMON YORGASON and MARILYN YORGASON, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS Declarant is the Owner of certain Property in the E 1/2 of the W 1/2 and the W 1/2 of the E 1/2 of the NE 1/4 of the SW 1/4, Section 7 T4N., R.1E., B.M., Eagle, Ada County, Idaho, which is more particularly described as:

Lots 1 through 6 inclusive, Block 1, and Lots 1 through 8 inclusive, Block 2, and Lots 1 through 6 inclusive, Block 3, and Lot 1 Block 4, and Lot 1 Block 5 of Timberland Estates Subdivision No. 1, a portion of the W 1/2 of the SE 1/4 of Section 19, T.4N. R.1E. B.M., Eagle, Ada County, Idaho.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, Covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real Property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each thereof.

ARTICLE I

DEFINITIONS

As used in this Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

Section 1. "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.

Section 2. "Assessments" shall mean those payments required of Owners and Association Members.

Section 3 "Association" shall mean and refer to TIMBERLAND ESTATES NEIGHBORHOOD ASSOCIATION, INC., its successors and assigns.

Section 4. "Board" shall mean the Board of Directors or other governing Board or individual, if applicable, of the Association.

Section 5. "Building" shall mean a structure constructed on a Lot on a temporary or permanent basis and unless specified to the contrary, shall include all appurtenances and Improvements thereto or used in connection therewith.

Section 6. "Bylaws" shall mean the Bylaws of Association, including any amendments thereto duly adopted.

Section 7. "Common Area" shall mean all real Property (including the Improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Areas to be owned by the Association at the time of the conveyance of the first Lot is described as follows: Lot 1 Block 1, Lot 5 Block 3, and Lot 1 Block 4, Lot 1 Block 5, which are the landscape areas defined on the recorded Plat of Timberland Estates Subdivision No. 1, Eagle, Ada County, Idaho.

Section 8. "Covenants" shall mean the Declaration of Covenants, Conditions and Restriction for Timberland Estates Subdivision No. 1, also referred to as CC&R's.

Section 9. "Declarant" shall mean and refer to J. Ramon Yorgason and Marilyn Yorgason, husband and wife, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for their purpose of development succeed to the Ownership of Declarant's interest in the whole of the Property.

Section 10. "Declaration" shall mean this Declaration as it may be amended from time to time. Declaration is from time to time also referred to as "CC&Rs" or "Covenants."

Section 11. "Existing House" shall mean the existing home located on Lot 6 Block 3 (2586 W. State Street, Eagle, Idaho.) This parcel is approximately 1.1 acre and has grandfather rights to allow horses.

Section 12. "Irrigation Assessment" shall mean the portion of the cost of maintaining, improving, repairing managing and operating the irrigation system located thereon.

Section 13. "Improvement" shall mean any structure, facility or system, or other Improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property, including but not limited to Buildings, fences, streets, drives, driveway, sidewalks, curbs, landscaping, signs, street signs, lighting, street lights, mail boxes, electrical lines, pipes, pumps, ditches, walkways, poles, swimming pools and other recreational facilities, storm water and/or drainage facilities, and fixtures of any kind whatsoever.

Section 14. "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration including interest thereon as provided in the Declaration.

Section 15. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision map of the Properties upon which Improvements may be constructed with the exception of any Common Area.

Section 16. "Member" shall mean each Person or entity holding a Membership in the Association.

Section 17. "Owner" shall mean the Person or other legal entity, including Declarant, holding fee simple interest of record to a Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation, but including any Mortgage (of any priority) or other security holder provided said mortgage or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise and any Person taking title through such Mortgage or other security holder by purchase at foreclosure sale or otherwise.

Section 18. "Person" shall mean any individual, partnership, corporation or other legal entity.

Section 19. "Phase" - Each parcel of land subdivided using the same name will be identified by a consecutive number beginning with No. 1 and will be known as a "Phase."

Section 20. "Plat" shall mean any Subdivision Plat covering any portion of the Property as recorded at the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.

Section 21. "Property" shall mean and refer to that certain real Property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 22. "Regular Assessment" shall mean the portion of the cost of maintaining, improving, repairing, managing and operating the Common Areas and all Improvements located thereon, and the other costs of the Association which is to be levied against the Property for and paid by each Owner to the Association, pursuant to the terms hereof or the terms of this Declaration.

Section 23. "Special Assessment" shall mean the portion of the costs of the capital Improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments that are authorized and to be paid by each Owner to Association, pursuant to the provisions of this Declaration.

Section 24. "Subdivision" shall mean the Timberland Estates Subdivision.

ARTICLE II

GENERAL COVENANTS, CONDITIONS, AND RESTRICTIONS

Section 1. The "Existing House" shall be excluded from all requirements of these CC&Rs, except those relating to irrigation assessments and the use of irrigation water. The Existing House owner shall pay double the Irrigation Assessment, and shall be entitled to notice of all meetings of the Association, and shall be entitled to one vote as a Class "A" shareholder on all votes related to irrigation.

Section 2. "Approval of Plans" - No Building, fence, wall, structure, Improvement, or obstruction shall be placed or permitted to remain upon any part of said properties unless a written request for approval thereof containing the plans and specifications, including exterior color scheme, has been approved in writing by the Architectural Control Committee as provided herein. The decision to approve or disapprove proposed plans rests entirely with the Architectural Control Committee (ACC).

Section 3. "Floor Area" - The floor area of a one-story house in this Subdivision shall not be less than 2500 square feet on the ground floor. For the purpose of the Covenants, eaves, steps, and open porches shall not be considered as part of a Building, provided, however, that this shall not be construed to permit any portion of a Building on a Lot to encroach upon another Lot.

Two-story and tri-level homes shall not have less than 2500 square feet with a minimum of 1500 square feet for main level exclusive of covered porches, entrances, or patios. Homes that do not meet the minimum square footage requirements will be allowed, if strong architectural guidelines are met for the street elevation. No split entry homes, mobile homes, or pre-built homes will be allowed. No residence shall be in excess of two stories above ground. No shack, tent, trailer house, or basement only house shall be used within the Subdivision for living quarters, permanent or temporary.

Section 4. "Garages" - All houses shall have an enclosed garage, which holds no less than two cars and no more than four. All floor area requirements in Section 2 above shall be exclusive of the required garage area. All garages shall be attached and match the construction standards of the house as well as be constructed of good quality material and workmanship.

Section 5. "Off-street Parking" - All Lots shall have a driveway that allows a minimum of two off-street automobile parking spaces within the boundaries of each Lot.

Section 6. "Value" - The appraised value of any residence shall exceed \$300,000.00 based on January 2003 values.

Section 7. "Exterior Appearance" - Each house in this Subdivision shall have brick, stone, or stucco on the front exposure. As a minimum, brick, stone or stucco shall be used either on full-height columns on the sides of the garage or full wainscot on the front of house including on both sides of the garage with front corners wrapped a minimum of two feet (2'). Each home shall have at least one of the following on the front elevation: decorative windows with rounded tops, bay windows, or pop-out box windows if they are incorporated into the roofline. The plans for each home will be reviewed individually for overall appearance of the elevation when the plans are submitted to the Architectural Control Committee.

Section 8. "Roofs" - Broken rooflines, gables, hip roofs, etc., are strongly encouraged. Roofs must be of at least 6/12 pitch. No light colors of shingles shall be allowed. No gravel roofs will be allowed. Roof colors must be approved by the Architectural Committee along with the colors of the exterior of the house.

Section 9. "Colors" - Exterior colors of earth tones or light blues or grays shall be required for the body

of the house. Bright or bold colors or very dark body colors shall not be allowed. Dark roof colors are encouraged. Approval of exterior colors must be obtained from the Architectural Control Committee.

Section 10. "Light Pole" - Each home is required to have a photo-sensitive pole light installed in the front yard within ten (10) feet of the Property line, designed to switch on automatically at sunset and off at sunrise with a minimum bulb power of 40 watts. Completion is the specific responsibility of the Builder.

Section 11 "Landscaping" - Landscaping of front yard must be completed within thirty (30) days of occupancy of home and is to include sod in the front yard and both sides of the driveway. Berms and sculptured planting areas are required. Automatic sprinklers in the full yard are required. Grass or hydro seed shall be planted in the back yard within one year of occupancy. In the event of undue hardship due to weather conditions this provision may be extended for a reasonable length of time upon written approval of the Architectural Control Committee. Concrete slab, rock or gravel may not be used as landscaping to provide parking adjacent to driveways. If access to the back yard for vehicle storage is desired, requests should be made to the Architectural Control Committee. Plants and materials used for such access must be approved prior to installation. A concrete slab next to the driveway will not be approved.

(a) The landscaping of each Lot shall include five (5) deciduous trees of at least 2"-2 1/2" caliper or pine tree of at least eight-feet (8') in height, twenty-five (25) two-gallon shrubs in the front yard. A minimum of fifteen (15) 2-gallon shrubs in the back yard. Lots with street frontage on two sides of the Lot (corner Lots) shall have additional landscaping requirements for the side yard along the street frontage, which minimums shall include twelve (12) two-gallon shrubs and two (2) evergreen or two (2) 2" caliper deciduous trees;

(b) Each Lot Owner shall be responsible for keeping his or her yard and landscaping in good condition. Owner shall provide adequate irrigation and maintenance of trees and landscaping, shall control weeds, and maintain the Owner's Lot in a clean and safe condition free of debris or any hazardous condition. Weeds shall be cut to less than four (4) inches. The Association will have the right to maintain the yard and landscaping if it is not maintained. Costs incurred by the Association in connection with such maintenance will become a Limited Assessment. (See Art. 1, Sec.12)

(c) For Lots that have a separated sidewalk, there is a landscape strip between the sidewalk and the street curb. The Owner of said Lot shall install sod, sprinklers and trees, at least 3-inch caliper in size, in this landscape area as specified on the City-approved landscape plan for each Lot. The spacing of the trees in this landscape strip shall be on the Lot line as shown on the approved landscape plan. The location of trees must be within four-feet (4') of the sidewalk and not to be in the bottom of the swale.

(d) A swale, or borrow ditch, has been designed and constructed to facilitate storm drainage. Neither street trees, nor any other object or structure, may be placed in the swale that may interfere with the function of the swale. Street trees must be planted on the top of the grassy swale on the side nearest the homes. For the life of the Subdivision, unless otherwise approved by ACHD, the swale must be grass only. The Owner, or his or her landscape contractor, shall install the sod, sprinklers and trees, at least 3-inch (3") caliper in size, and ensure the grade and elevation of the swale always remain as originally designed and constructed and approved by ACHD. The swale, or borrow ditch, must never be filled in. The maintenance requirements for swales or borrow ditches in the Timberland Estates Storm Drainage system are set forth in Article VIII "Drainage".

Section 12. "Fences" - Fences are not required. If a fence is desired, the Architectural Control Committee shall approve the plans prior to construction. Fences shall be either wrought iron or vinyl (color to match Subdivision fence on State Street (State Highway 44) and not exceed six-feet (6') in height.

(a) Fences shall not be built closer to the front of the Lot than five-feet (5') behind the front corner of the house on either side. Fences shall not extend closer than twenty-feet (20') to the front street right of way. On corner Lots, fences shall not be built closer than twenty-feet (20') to any side street right of way without the express approval of the Architectural Control Committee. No fences shall be higher than six-feet (6'). All fences setbacks must meet Eagle City Codes.

(b) If the Declarant should provide any fencing, for whatever reason, the Owner on whose Lot line the fence is built must assume responsibility to maintain said fencing;

(c) The location of fences hedges, high plantings, obstructions, or barriers shall be so situated as not to unreasonably interfere with the enjoyment and use of neighboring properties and streets and shall not be allowed to constitute an undesirable, nuisance, or noxious use. The determination of the Architectural Control Committee shall be binding on all parties as to whether an undesirable, nuisance, or noxious use exists.

See "Dog Runs" (Section 15) as they pertain to fencing requirements.

See "Vehicle Storage" (Section 13) as it pertains to fencing and the amount of setback required if the vehicle height extends above the fence.

Section 13 "Vehicle Storage" - Parking of boats, trailers, motorcycles, trucks, truck-campers, and like equipment, or junk cars or other unsightly vehicles, and like items, shall not be allowed on any part of said properties nor on public ways adjacent thereto excepting only within the confines of an enclosed garage or other approved enclosure, and no portion of same may project beyond the enclosed area. Parking of automobiles or other vehicles on any part of the properties or on public ways adjacent thereto shall be prohibited except within garages, carports, or other approved areas. Garage driveways shall not be extended on either side for additional parking. For the purpose of this Section, an approved area may be beside the house, but not on a street side, and consist of a six-foot (6') solid fenced enclosure. If the height of the stored item is greater than the height of the front fence, the item must be stored two-feet (2') farther from the front fence for each part of a foot the item extends above the fence, and the item must be stored two-feet (2') away from any side yard fence for each part of a foot it extends above said fence, but in no case will the item be allowed to be stored if its height is greater than ten-feet (10') or length greater than thirty-feet (30'). Any variance to allow a deviation to these vehicle storage requirements must be approved in writing by the ACC and all surrounding neighbors. The Architectural Control Committee shall be the sole and exclusive judges of approved parking areas.

Section 14 "Animals" - Keeping or raising of farm animals or poultry is prohibited. No more than two (2) domestic pet animals may be kept at one time, except that a litter of young may be kept until eight (8) weeks old. All dogs and cats or household pets kept on these premises shall be fed and cared for and shall be adequately fenced and controlled so as not to annoy or trespass upon the use of the Property of others. Dogs and cats shall not be allowed to run at large.

Section 15. "Dog Runs" - Dog runs may be permitted along a side fence, Dog runs must not be more than six-feet (6') high and they must be screened from neighbors' view. The Architectural Control Committee in writing prior to construction must approve dog runs, and the construction material.

Section 16 "Antennae and Satellite Dishes" - Installation of radio and/or television antennae or satellite dishes is prohibited outside of a Building without written consent from the Architectural Control Committee. Regular local antennae must be in the garage attic. A satellite dish is allowed on the back of the home or side of the home under the eaves. The Architectural Control Committee may approve a satellite dish to be installed at other locations if screened from street view.

Section 17. "Setbacks" - No residence shall be located on any Lot nearer than thirty-feet (30') from the front line and thirty feet (30') from the rear line, interior side setback is fifteen-feet (15') and street side setback is thirty feet (30').

Section 18 "Additional Easements" - There is a six-foot (6') easement shown on the recorded Plat on each side of the interior side Lot lines for a permanent public utility, irrigation, and drainage easement.

Within these easements no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities or which may change the direction of the flow of the water through drainage channels in the easements.

Also, as shown on the recorded Plat is a required seventy-five foot (75') landscape buffer area, sixty-foot (60') Common Area lost plus a fifteen-foot (15') easement, along State Highway 44 (State Street). See Section 32 - Common Areas regarding the maintenance of the landscape easement.

Also, as shown on the recorded Plat is an irrigation easement for the Ballantyne Ditch Company. See any notes on the Plat and Article VIII - Irrigation for restrictions and permitted uses in the easement.

Section 19 "Construction Time" - Construction of any residences in the Subdivision shall be diligently pursued after commencement thereof, to be completed within twelve (12) months. *The Owner of a Lot shall begin construction within twelve months of the closing date or the Lot will be sold back to the developer at 80 % of the original purchased price, unless otherwise approved by Declarant.*

Section 20 "Outbuildings" - Only one outbuilding per Lot will be allowed. All outbuildings shall be constructed of quality building material, completely finished with the same shingles, including color, that were applied on the house and painted on the outside to match the body color of the house, and shall be of quality and character that will be in harmony with the house on said Lot. All outbuildings must be approved by the Architectural Control Committee prior to construction and are to comply with all applicable Eagle City Codes.

Section 21 "Nuisances" - No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property including Lots and vacant Lots, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to the Property or to its occupants, or to any other Property in the vicinity thereof or to its occupants. No noise or other nuisance, as described by city or county ordinances, as amended from time to time, shall be permitted to exist or operate upon any portion of the Property. No party or other activity on an Owner's dwelling or Lot which makes or causes to make noises which might tend to unreasonably interfere with the peace and quiet of Owners or occupants of Timberland Estates Subdivision shall be allowed. No radio or other sound system shall be operated on the Property except at a low sound level. No offensive noise, language or behavior is allowed. The use of any type of firearms on the Property is strictly prohibited and is subject to formal complaint to the Police Department.

Section 22 "Conducting Business on Properties" - No business shall be conducted on the above properties that cannot be conducted within the residence of the Owner as permitted by law. No signs shall be installed to advertise said business. No oil exploration or development of any nature or kind or mining exploration, development or structure shall be permitted upon the Lots in this Subdivision.

Section 23. "Water for Lawn and Yard Sprinkling" - The water source for sprinkling of lawns and other outside areas will be pressurized irrigation water, which will be provided to each Lot. This pressurized water will not be potable, drinkable, and will not meet safe drinking water standards established, from time to time, by the federal, state, and/or local governments. The Subdivision is in the Ballantyne Ditch Company jurisdiction. Assessments from the Ballantyne Ditch Company will be made in total to the Association and paid by Association dues and Assessments.

Section 24 "Sewer Locations" - All bathroom, sink, and toilet facilities shall be located inside the dwelling house or other suitable appurtenant Building and shall be connected the Eagle City Sewer.

Section 25. "Signs" - No sign of any kind shall be displayed to public view on any Building or building site on said properties except a professional sign of not more than five (5) square feet advertising the Property for sale by an Owner to advertise the Property. If a Property is sold, any sign relating thereto shall be removed immediately, except that a "Sold" sign may be posted for a reasonable period following the sale. Notwithstanding any provision to the contrary, signs of any and all sizes and dimension may be displayed by the Declarant, without limitation thereto, on Lots owned by said Declarant. The Declarant or the Neighborhood Association, if there is one, may display a sign of any size and dimension, without limitation thereto, for Subdivision identification.

No real estate signs, or signs of any kind, except for identification, may be displayed on any Common Area except for the developer's designated marketing agent for that Subdivision, if there is one. Subdivision identification signs are subject to review by the Eagle City Design Review Board.

Section 26. "Waste Disposal" - No Lot or building site included within this Subdivision shall be used or maintained as a dumping ground for waste material. Incinerators are not permitted. Receptacles for storage of trash, garbage, etc. shall be maintained in a sanitary and clean condition.

Section 27. "Construction Equipment" - No machinery, building equipment, or material shall be stored upon site until the builder is ready and able to immediately commence construction. Such building materials must be kept within the Property line of such building site upon which the structure is to be erected.

Section 28. "Damage to Improvements" - It shall be the responsibility of the builder of any residence in

this Subdivision to leave street, curbs, sidewalks, fences, tiled irrigation lines, if any, and utility facilities free of damage and in good and sound condition at the conclusion of the construction period. It shall be conclusively presumed that all such Improvements are in good sound condition at the time the Building is begun on each Lot unless the contrary is shown in writing at the date of conveyance or by date of possession, whichever date shall first occur, which notice is addressed to a Member of the Architectural Control Committee.

Section 29. "No Hazardous Activities" - No activities shall be conducted on the Property and no Improvements constructed on any Property, which is or might be unsafe or hazardous to any Person or Property.

Section 30. "Unsightly Articles" - No unsightly articles shall be permitted to remain on any Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage and trash shall be kept at all times in such containers and in areas approved by the Board. No clothing or fabrics shall be hung, dried or aired in such a way as to be visible to other Property, and no equipment, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or as appropriately screened from view. No vacant residential structures shall be used for storage of building materials.

Section 31. "Exemption of Declarant" - Nothing contained herein shall limit the right of Declarant to subdivide or resubdivide any portion of the Property to grant licenses to reserve rights-of-way and easements with respect to Common Area to utility companies, public agencies or others, or to complete excavation, grading and construction of Improvements to and on any portion of the Property owned by Declarant, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Property so long as any Lot in the Property remains unsold. Such right shall include, but shall not be limited to, erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Declarant's business of completing the work and disposing of the same by sales lease or otherwise. Declarant shall have the right at any time prior to acquisition of title to a Lot by a purchaser from Declarant to grant, establish and/or reserve on that Lot additional licenses, reservations and rights-of-way to Declarant, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. Declarant may use any structures owned by Declarant on the Property as model home complexes or real estate sales or leasing offices. The rights of Declarant hereunder may be assigned by Declarant to any successor in interest in connection with Declarant's interest in any portion of the Property, by an express written assignment recorded in the Office of the Ada County Recorder.

Section 32. "The "Architectural Control Committee's" decision is final and binding on all ACC issues."

Section 33. "Common Area" - The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows: Lot 1 Block 1, Lot 5 Block 3, Lot 1 Block 4, Lot 1 Block 5 in the Timberland Estates Subdivision No. 1, Eagle, Ada County, Idaho.

The landscape berm within the common Lot shall be maintained in perpetuity by the said homeowners Association. Said maintenance shall be from the State Street pavement up to the fence on the berm in said common Lot.

Section 34. "Annexation" - It is intended that additional Phases of Timberland Estates Subdivision may be annexed or included within the jurisdiction of this Declaration by Declarant without approval of the Lot Owners. Common Areas included in annexed Phases are for common use of Lot Owners in all Phases of the Subdivision and will be maintained by the Timberland Estates Neighborhood Association, Inc.

ARTICLE III

ARCHITECTURAL CONTROL

Section 1. "Architectural Control Committee" - A committee of three Persons shall act as an Architectural Control Committee and shall, prior to any new construction be furnished with one set of detailed plans and specifications of any proposed Improvement and shall be allowed fifteen (15) days to review said plans, drawings, and

specifications. If said Committee shall approve the proposed Improvement, or any modification or alteration thereof, they shall so indicate by the dating and signing of the set of plans by a Member of the Committee, and their approval shall be construed as full compliance with the provisions of these Covenants. Said Committee shall have sole discretion to determine what shall be substantial compliance with said Covenants. No Building shall occupy any portion of said Subdivision without prior consent of said Committee.

Section 2. "Discretion of Committee" decision to approve or disapprove proposed plans rests entirely with the Architectural Control Committee, and shall be authorized to issue rules relating to the implementation of these Declarations, including governing the design, construction, location, and appearance of all Improvements and landscaping on the Property.

Section 3. "Committee Membership" The initial Committee shall be appointed by Declarant and shall consist of the following:

J. Ramon Yorgason	6200 N. Meeker Place, Boise, ID 83713	377-3939
David R. Yorgason	6200 N. Meeker Place, Boise, ID 83713	377-3939
Janet D Kelley	6200 N. Meeker Place, Boise, ID 83713	377-3939

(a) A majority of said Committee is empowered to act for the Committee. In the event any Member of the Committee is unable to act or fails or desires not to act, the remaining Committee Members shall appoint an Owner of a Lot in said Subdivision to serve on said Committee, all of whom serve without compensation;

(b) Upon the sale of the last Lot of the last Phase in said Subdivision, the work of the initial Committee shall be deemed completed, and said Committee Members shall then be automatically released from all responsibilities thereto. There is a Neighborhood Association, notwithstanding any other provision to the contrary in the Covenants, Conditions and Restrictions for this Subdivision, after the Declarant has sold all the Lots in the properties, and not before, the then seated Directors of the Neighborhood Association shall automatically become the Architectural Control Committee. The Board may choose to allow for a separate Architectural Control Committee, with a minimum of three Members. If a full functioning Architectural Control Committee does not exist, they the Board, shall accept all responsibilities, rights, and decision making for Architectural Control Committee issues. Amending this instrument shall not affect this provision;

(c) In the event there is not a Neighborhood Association for the Subdivision, it is the responsibility of the Homeowners to select among themselves an Architectural Control Committee.

ARTICLE IV

GENERAL PROVISIONS

Section 1. "Enforcement" - Any Owner, the Association or Declarant shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, Covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Enforcement against any Person or Persons violating or attempting to violate any covenant herein may be commenced after ten (10) days notice thereof in writing served on the offending party. In the event of judgment against any Owner for a violation of any covenant herein, the court may award injunction against any Person for such violation, require such compliance as the court deems necessary, award such damages, reasonable attorney's fees, and court costs as may be suffered or incurred, and such other or further relief as may be deemed just and equitable. Failure by any Owner, the Association or Declarant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2 "Severability" - Invalidation of any one of these Covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3 "Amendment" - This Declaration may be amended during the first thirty (30) year period by

an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners. Any amendment must be recorded.

Section 4 "Time Extension for Covenants" - The Covenants set forth in this instrument shall run with the land and shall be binding on all Persons owning a Lot(s) under them for a period of thirty (30) years from the date of this recording thereof, after which time such Covenants shall be automatically extended for successive periods of ten (10) years, unless at any time after the initial recording of this instrument an instrument signed by sixty-seven percent (67%) of the Lot Owners of this Subdivision has been recorded agreeing to terminate said Covenants, in whole or in part.

Section 5 "Dissolution" - The Association shall not be dissolved or relieved of its responsibility to maintain the defined Common Area and facilities contained therein without the prior written approval from the City of Eagle.

Section 6 "Annexation of Additional Phases" - It is intended that additional Phases of Timberland Estates Subdivision may be annexed or included within the jurisdiction of this Declaration by Declarant without approval of the Lot Owners. Common Areas included in annexed Phases, as well as the Common Areas included in this Declaration, are for common use of Lot Owners in all Phases of the Subdivision and will be maintained by the Timberland Estates Neighborhood Association, Inc. Homeowners of all future Phases will pay dues and Assessments to the Association, which will be used, for maintenance of all Common Areas and other Association expenses.

ARTICLE V

COMMON AREA PROPERTY RIGHTS

Section 1 "Owner's Easement of Enjoyment" - Every Owner shall have the right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge Assessments as provided herein;
- (b) the right of the Association to charge a setup fee to an Owner when title to a Lot pass from the Grantor to an Owner other than the Grantor;
- (c) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any Assessment against such Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its public rules and regulations;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of Members has been recorded in the appropriate county deed records, agreeing to such dedication or transfer; provided that the public agency accepts such dedication or transfer;
- (e) the right of the Association to prohibit the construction of structures or Improvements on the Common Area.
- (f) the 60-foot (60') wide buffer abutting State Street (State Highway 44) shall be maintained in perpetuity by the homeowner's Association.

Section 2 "Delegation of Use" - Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the properties.

Section 3 "Annexation of Additional Phases" - It is intended that additional Phases of Timberland Estates Subdivision may be annexed or included within the jurisdiction of this Declaration by Declarant without approval of the Lot Owners. Common Areas included in annexed Phases, as well as the Common Areas included in this Declaration, are for common use of Lot Owners in all Phases of the Subdivision and will be maintained by the Timberland Estates

Neighborhood Association Inc. Homeowners of all future Phases will pay dues and Assessments to the Association that will be used for maintenance of all Common Areas and other Association expenses.

Section 4. "Damages" - Each Owner shall be fully liable for any damage to any Common Area which may be sustained by reason of the negligence or willful misconduct of the Owner, such Owner's resident tenant or contract purchaser, or such Owner's family and guests, both minor and adult. In the case of joint Ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited Assessment against the Lot and may be collected as provided herein for the collection of other Assessments. No Owner shall be liable for any amounts greater than is legally allowable under Idaho law.

ARTICLE VI

TIMBERLAND ESTATES NEIGHBORHOOD ASSOCIATION

Section 1. "Organization of Timberland Estates Neighborhood Association, Inc." - Timberland Estates Neighborhood Association, Inc. (the Association) shall be initially organized by Declarant as an Idaho non-profit corporation under the provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 2. "Membership" - Every Owner of a Lot, which is subject to Assessment, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot, which is subject to Assessment. Every Person or entity who is a record Owner (including contract sellers) of a fee or undivided fee interest in any Lot located within said Property shall, by virtue of such Ownership, be a Member of the Association. When more than one Person holds such interest in any occupied Lot, all such Persons shall be Members. The foregoing is not intended to include Persons or entities that hold an interest merely as security for the performance of an obligation. The Association shall maintain a Member list and may require written proof of any Member's Lot Ownership interest.

The financial reports, books, and records of the Association may be examined, at a reasonable time, by any Member of record.

Section 3. "Voting Rights" - The Association will have two classes of voting Memberships.

(a) **Class A Membership:** Class A Members shall be the Owners of Lots, with the exception of the Declarants. Each Member shall be entitled to cast one vote or fractional vote as set forth herein for each Lot in whom he holds the interest required for Membership. Only one vote shall be cast with respect to each Lot. The vote applicable to any Lot being sold under a contract of sale shall be exercised by the contract vendor unless the contract expressly provided otherwise and the Association has been notified, in writing, of such provision. Voting by proxy shall be permitted.

(b) **Class B Membership:** Class B Members shall be the Declarants. The Declarants shall be entitled to six (6) votes for each Lot of which Declarants are the record Owners.

Section 4. "Officers and Directors" - At an annual meeting called pursuant to notice as herein provided for the establishment of annual Assessments, a Board of Directors of the Association shall be elected by ballot of those attending said meeting or voting by proxy in accordance with the Association Bylaws. There shall be three Directors elected to serve for a period of one year.

Section 5. "Suspension of Voting Rights" - The Association shall have the right to suspend any voting rights for any period during which any Assessment against said Member's Property remains unpaid; and for a period not exceeding sixty (60) days for each infraction of its published rules and regulations.

Section 6. "Association Powers" - The Association shall have the powers of a corporation organized under the general corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and

all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and the Articles and Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Common Area and the Association's other assets, including water rights when and if received from Declarant, and affairs and the performance of the other responsibilities herein assigned, including without limitation.

(a) Assessments. The power to levy Assessments on any Owner or any portion of the Property and to enforce payment of such Assessments, all in accordance with the provisions of the Declaration;

(b) Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach of this Declaration or the Articles or the Bylaws.

Section 7. "Association Duties" - In addition to duties necessary and proper to carry out the power delegated to the Association by this Declaration, and the Articles and Bylaws without limiting the generality thereof, the Association or its agent, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

(a) Operation and maintenance of Common Area. Operate, maintain, and otherwise manage or provide for the operation, maintenance of the Common Area;

(b) Maintenance of berms, retaining walls and fences. The Association shall maintain or provide for the maintenance of any and all berms, retaining walls, and the exterior of fences, if any, within and abutting the Common Area;

(c) Taxes and Assessments. Pay all real Personal Property taxes and Assessments separately levied against the Common Area or against the Association and/or any other Property owned by the Association. Such taxes and Assessments may be contested or compromised by the Association, provided, however, that such taxes and Assessments are paid or a bond insuring payment is posted prior to the sale or disposition of any Property to satisfy the payment of such taxes and Assessments. In addition, the Association shall pay all other federal, state or local taxes, including income or corporate taxes levied against the Association, in the event that the Association is denied the status of a tax exempt corporation;

(d) Water and other utilities. Acquire, provide and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone and gas and other necessary services for the Common Area;

(e) Insurance. If desired, obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable, including, without limitation, all risk insurance and comprehensive public liability insurance, the extent of which coverage shall be determined by the Board;

(f) Enforcement of Restrictions and Rules. Perform such other acts whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, or of the Articles or Bylaws, including without limitations, the recordation of any claim of lien with the Ada County Recorder, as more fully provided herein.

Section 8. "Personal Liability" - No Member of the Board, or Member of any committee of the Association, or any officer of the Association, or the Declarant, or the manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association, the Board, the manager, if any, or other representative or employee of the Association, the Declarant, or any committee, or any officer of the Association or the Declarant, provided that such Person, upon the basis of such information as may be possessed by such Person, has acted in good faith without willful or intentional misconduct.

Section 9. "Meetings of Association" - Each year the Association shall hold at least one meeting of the Members, according to the schedule for such meetings established by the Bylaws; provided, that such meeting shall occur in the fall approximately in the month of November once a year. Members shall be entitled to attend Association meetings, and all other persons may be excluded.

Section 10. "Notice and Quorum to Conduct Business of the Neighborhood Association" - Written notice of any meeting of the Neighborhood Association called for the purpose of taking any action as specified in this Declaration shall be sent to all Members not less than 10 days nor more than 50 days in advance of the meeting setting forth the place, date and hour of the meeting and nature of the business to be conducted. The presence of Members, of proxies, or written or absentee ballots from Members entitled to cast sixty percent (60%) of the total votes of the Membership shall constitute a quorum to transact routine business and set annual Assessments. If the required quorum is not present, the meeting may be rescheduled, and at the rescheduled meeting, the presence of Owners or of proxies entitled to cast ten percent (10%) of the total votes shall constitute a quorum. No written notice of the rescheduled meeting shall be required and official business of the Association shall then be conducted.

ARTICLE VII

ASSESSMENT

Section 1. "Creation of the Lien and Personal Obligation of Assessments" - The Declarant, for each Lot owned within the Property, hereby Covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) an initial assessment of five hundred dollars (\$500.00) for each Lot, excluding the Existing House, payable at closing, and (2) a transfer fee, which is an assessment of one-hundred dollars (\$100.00) on the closing of a Lot that follows the initial closing, and (3) annual assessments, excluding Existing House, or charges, and (4) Irrigation Assessments, and (5) Special and Limited Assessments and such Assessments to be established and collected as hereinafter provided. The Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Property against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Property at the time when the Assessment fell due. However, the personal obligation for delinquent Assessments shall pass to his successors in title. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Declaration to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

Section 2. "Regular Assessments" - All Owners, excluding the Existing House, are obligated to pay Regular Assessments to the Treasurer of the Association on a schedule of payments established by the Board. See Section below "Maximum Annual Assessments" for the amount of the Assessment.

(a) **"Purpose of Regular Assessments"** The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association including legal and attorneys fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, Improvement, utilities, protection, maintenance, repair, management and operation of the Common Area, including all Improvements located on such areas owned and/or managed and maintained by the Association, and an amount allocated to an adequate reserve fund to be used for repairs, replacement maintenance and Improvement of those elements of the Common Area, or other Property of the Association that must be replaced and maintained on a regular basis (collectively "Expenses");

(b) **"Maximum Annual Assessment"** - For the year 2003, the maximum annual Assessment shall be five hundred and No/100 dollars (\$500.00) per Lot for Class A Members, excluding the Existing House and the Declarant, of the Neighborhood Association.

(i) from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased each year not more than 15% above the maximum Assessment for the previous year without a vote of the Membership;

(ii) from and after January 1 of the year immediately following the conveyance of the first Lot to

an Owner, the maximum annual Assessment may be increased above 15% by a majority vote of a quorum of Members who are voting in Person, by proxy, or by written or absentee ballot at a meeting of the Homeowners;

(iii) the Board of Directors may fix the annual Assessment at an amount not in excess of the maximum.

Section 3. "Irrigation Assessment" - For the year 2003, the maximum annual Irrigation Assessment shall be Ninety Six and No/100 dollars (\$96.00) per Lot for Class A Members, excluding the Declarant. The Existing House Irrigation Assessment shall be two (2) times the annual Irrigation Assessment charged to all other owners.

(i) from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased each year not more than 15% above the maximum Assessment for the previous year without a vote of the Membership;

(ii) from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased above 15% by a majority vote of a quorum of Members who are voting in Person, by proxy, or by written or absentee ballot at a meeting of the Homeowners;

(iii) the Board of Directors may fix the annual Assessment at an amount not in excess of the maximum.

Section 4 "Limited Assessments" - Notwithstanding the above provisions with respect to Regular and Special Assessments, a Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member's Lot into compliance with the provisions of the governing instruments for Timberland Estates Subdivision. There will be no Limited Assessments for the Existing House except when the Limited Assessment is directly related to irrigation system expenses.

Section 5 "Special Assessments for Capital Improvements" - In addition to the annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital Improvement upon the irrigation system or Common Area, including fixtures and personal Property related thereto, provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in Person or by proxy at a meeting duly called for this purpose. There will be no Special Assessments for the Existing House except when the Special Assessment is directly related to irrigation system expenses.

Section 6 "Uniform Rate of Assessment" - Both annual and Special Assessments must be fixed at a uniform rate for all Lots in each class of Membership and may be collected on a monthly, quarterly, or annual basis at the discretion of the Board.

Section 7 "Date of Commencement of Annual Assessments: Due Dates" - The annual Assessments provided for herein shall commence at the time of the conveyance of each Lot to an Owner. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate by an officer of the Association setting forth whether the Assessments on the specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8 "Effect of Nonpayment of Assessments: Remedies of the Association" - Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18% per annum. The Association, or any Owner, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. "Right to Enforce" - The Association has the right to collect and enforce its Assessments pursuant to the provisions of this Declaration.

Section 10 "Subordination of the Lien to Mortgages" - The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments, which became due prior to such sale or transfer. No sale or

transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 11. "Property Exempt from Assessments" - The following Property subject to this Declaration shall be exempt from the Assessments created herein:

- (a) All properties expressly dedicated to and accepted by a local public authority;
- (b) Any local properties owned by the Association.
- (c) Any properties owned by Declarant.

ARTICLE VIII

DRAINAGE

Section 1. "No Driveway Zone" - These zones are to protect the storm drainage facilities located in the adjacent road right of way. No driveway access shall be allowed in these zones unless such driveway is specifically approved in writing by the Ada County Highway District (ACHD).

Section 2. "Maintenance of Grassy Swale, or Borrow Ditch" - The following are the requirements and guidelines for the maintenance of the grassy swale located in the ACHD right-of-way at the front of the Lots:

- a) **Do not fill in the swale, or borrow ditch** - Under no circumstance is the Association or an Owner allowed to fill in the grassy swale, or borrow ditch, unless approved in writing by the ACHD. The purpose of the swale is to accommodate and facilitate storm water drainage runoff from the streets of the Timberland Estates Subdivision. Any improvement, including driveway or walkway, which would block or fill in swale or ditch, must include a twelve (12) inch drainpipe to facilitate a non-restrictive flow of storm water. The elevation and slope of improvement and pipe must be consistent with swale prior to any improvement, including construction of home. Any questions regarding the swale should be directed to Declarant or ACHD. If the swale is filled in, the ACHD or the Association has the right to rebuild and repair the swale to its original state, and bill the Owner of said Lot for any and all expenses incurred.
- b) **Light Maintenance of the Drainage Facility** - the Association shall provide all "light" maintenance of the drainage facility as specified in the MANUAL FOR LIGHT MAINTENANCE. If the Association does not do the required "light" maintenance, ACHD shall have the right to do such maintenance and assess the costs back to the Association. The maintenance area is in the ACHD right-of-way and is defined between the sidewalk and the edge of the concrete curb. For the various "light" maintenance items involved, periodic inspections are to be made of the drainage facility in addition to any work required in each of the categories below. These inspections shall be done a minimum of once every month. The "light" maintenance shall include the following items:
 - i. **Lawn Care.** Since the drainage swale is grassed, fertilizer shall be applied at a rate and interval to keep the grass healthy. Also weekly mowing and grass clipping removal shall be performed to maintain a healthy appearance and working drainage facility.
 - ii. **Irrigation.** Water shall be applied to the grass at a rate that will keep the grass healthy and not interfere with the proper operation of the storm water drainage swale. Over irrigating must be avoided, as this may cause ponding and deterioration of the swale performance.
 - iii. **Trash Cleanup.** During the periodic inspections, any trash found within the boundary of

the swale shall be collected and disposed of offsite.

- iv. **Bank Stability.** During the periodic inspections, the banks of the swale shall be checked for any bank erosion. If any serious problems are found, the homeowner's Association shall contact a licensed earthwork contractor to make the necessary repairs to the swale.
- c) **Heavy Maintenance of Drainage Facility** - "Heavy" maintenance consists of periodically inspecting the drainage facility to ensure it is functioning properly; cleaning out the facility piping and mucking out the facility when the sediment level exceeds the designed storage level. All other maintenance shall be referred to herein as "light" maintenance. Ada County Highway District (ACHD) has opted to perform this "heavy" maintenance and shall be allowed by the Owners and the Association to perform this maintenance work. In the event ACHD shall decide not to do such "heavy" maintenance, then the Association shall do so.

Section 3. "Lot Drainage" - The Lot shall be graded to avoid an excessive runoff drainage and contained on site as not to run off on adjacent Owners Lot.

Section 4. "Operation and Maintenance Manual for Storm Drainage for Timberland Estates Subdivision" The neighborhood Association must follow the practices and procedures as outlines in the Operation and Maintenance Manual for Storm Drainage for the Timberland Estates Subdivision.

Section 5. "Proposed Changes" - Any proposed changes to the drainage system, or any other documents related to the storm water drainage system previously approved by the ACHD, requires concurrence by the ACHD prior to making such changes. See Article II, Section 10 "Landscaping" for the landscaping requirements along the rural section road.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have executed this instrument on this 1st day of October, 2003.

J. Ramon Yorgason
J. RAMON YORGASON

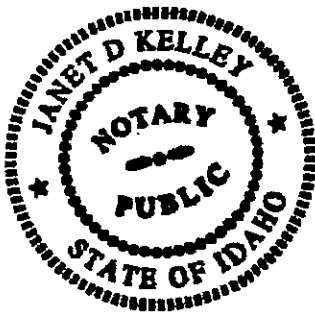
Marilyn Yorgason
MARILYN YORGASON

STATE OF IDAHO }

}: ss.

County of Ada }

On this 1st day of October, 2003, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared J. RAMON YORGASON and MARILYN YORGASON, known to me to be the Persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Janet D. Kelley
Notary Public for the State of Idaho
Residing at Boise, Idaho
My Commission Expires 3.31.09

