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SECRET. DEPT. OF STATE  
STATE OF IDAHO

THE  
PROPOSED  
MERGER  
  
OF THE  
OWSLEY CANAL COMPANY  
  
HOLLEY WATER USERS  
ASSOCIATION, INC.  
  
AND  
  
JACKETT CANAL COMPANY

1400 EAST 1500 NORTH  
TERRETON, IDAHO  
83450

C 81096

**STATE OF IDAHO  
CORPORATION FILING FEES**

**DOMESTIC CORPORATION  
\$30.00**

**PAYABLE TO:  
PETE T. CENARRUSA  
SECRETARY OF STATE**

**ROOM 203, STATEHOUSE  
BOISE, ID 83720  
(208) 334-2300**

ARTICLES OF MERGER  
OF DOMESTIC CORPORATIONS  
INTO  
OWSLEY CANAL COMPANY

Pursuant to the provisions of Section 30-1-74 of the Idaho Business Corporation Act, the undersigned corporations adopt the following Articles of Merger for the purpose of merging them into one of such corporations.

FIRST: The following Plan of Merger was approved by the shareholders of each of the undersigned corporations in the manner prescribed by the Idaho Business Corporation Act:

I.

RECITALS

A. Owsley Canal Company is validly organized, existing and in good standing under the laws of the State of Idaho. All of the merging corporations are validly organized, existing and in good standing under the laws of the State of Idaho.

B. Owsley Company Canal, the surviving Corporation, has an authorized capital of 17,818 shares of Common Stock, irrigating 17,818 acres of land. One share per acre. Par value of \$1.00 each.

C. Holley Water Users Association, Inc., has 2,978 shares of Common Stock, irrigating 2,978 acres. One share each acre. Par value of \$1.00 per share.

D. Jakkett Canal Company has 3,107.3 shares of Common Stock irrigating 3,107.3 acres of land. One share per acre. Par value of \$1.00 each.

E. The Board of Directors of the Constituent Corporations will consider the proposed plan, and if they determine that it is in the best interests of their respective corporations and stockholders that the Merging Corporations merge with and into Owsley Canal Company in accordance with the provisions of applicable statutes of the State of Idaho, they will submit it to the stockholders of the respective Merging Corporations.

1 @ 30.00 = 30.00 MERGER

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## II.

### PLAN OF MERGER

The plan is to have the Constituent Corporations agree, each with the other, to merge into a single corporation which shall be Owsley Canal Company the Surviving Corporation, (whose name shall not be changed and whose Articles of Incorporation shall not be amended in any respect as provided herein) pursuant to the laws of the State of Idaho, and shall agree upon and prescribe the terms and conditions of the statutory merger, the mode of carrying it into effect and the manner and basis of converting the shares of the Merging Corporations into shares of the Surviving Corporation, as herein set forth:

On the effective date of the merger, the Merging Corporations shall be merged with and into Owsley Canal Company an Idaho Corporation, and the separate existence of the Merging Corporations shall cease; the Constituent Corporations shall become a single corporation named Owsley Canal Company, an Idaho corporation, which shall be the Surviving Corporation.

## III.

### ARTICLES OF INCORPORATION OF SURVIVING CORPORATION

The Articles of Incorporation of Owsley Canal Company, the Surviving Corporation, which are set forth in Exhibit "A" to this Plan, shall not be amended, and shall continue to be the Articles of Incorporation of the Surviving Corporation until further amended in accordance with the Corporation Laws of the State of Idaho.

Such Articles of Incorporation, as thus set forth, were certified by the Secretary of State of the State of Idaho on April 7, 1994.

IV.

BY-LAWS OF SURVIVING CORPORATION

The By-Laws of the Owsley Canal Company, in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation, until altered or repealed in the manner provided by law and such By-Laws.

V.

DIRECTORS AND OFFICERS OF SURVIVING CORPORATION

The Directors and Officers of the Owsley Canal Company, immediately prior to the effective date of the merger shall continue to be the Directors of the Surviving Corporation, to hold office for the terms specified in the By-Laws of the Surviving Corporation and until their respective successors are duly elected and qualified.

VI.

MANNER AND BASIS OF CONVERSION OF SHARES

A. All shares of the merging companies, (a) Owsley Canal Company, (17,818 shares); (b) Holley Water Users Association, Inc., (2,978 shares); and (c) Jackett Canal Company (3,107.3 shares) have been filed in the Water Right Adjudication claims files of the Idaho Department of Water Resources as required by law. The water rights so claimed by these companies, as being equal, on a basis of one full share per one acre of ground.

B. Each share of the Merging Corporation's Common Stock which is issued and outstanding immediately prior to the effective date of the merger, shall by virtue of the merger be converted into and become, without action on the part of the holder of such Common stock, fully paid and assessable shares of a Class of the Common Stock of the Surviving Corporation. Each outstanding certificate for Common Stock of the Merging Corporations shall thereupon be deemed for all purposes to evidence ownership of the number of shares of Common Stock of the Surviving Corporation into which the same shall have been converted at the rate set forth above.

C. As soon as practicable after the effective date of the merger, each holder of outstanding certificates for Common Stock theretofore issued by the Merging Corporations shall be entitled, upon surrender of the same by such holder for cancellations, as directed by the Surviving Corporation to receive new certificates for the number of shares of Common Stock of the Surviving Corporation to which he is entitled.

## VII. EFFECT OF MERGER

A. On the effective date of the merger, the Surviving Corporation shall possess all the rights, privileges, powers, and franchises of a public as well as a private nature of each of the Constituent Corporations, and shall become subject to all the restrictions, disabilities and duties of each of the Constituent Corporations and all of the singular rights, privileges, powers and franchises of each of the Constituent Corporations. All water rights, canals, diversionary works, cash, bank, checking and savings accounts, and all other property, real, personal and mixed and debts due to each of the Constituent Corporations of whatever account, as well as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, assets, rights, privileges, powers, franchises and immunities, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective Constituent Corporations; and the title to any real estate vested by deed or otherwise, in either of the Constituent Corporations, shall not revert or be in any way impaired by reason of the merger; provided, however, that all of the creditors and liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, obligations and duties of the respective Constituent Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities, obligations and duties had been incurred or contracted by it.

B. If at any time after the merger becomes effective it shall appear to the Surviving Corporation that any further assignments or assurances are necessary or desirable to evidence the vesting in the Surviving Corporation of the title to any of the property or rights of the Merging Corporations, those persons who were proper officers and directors of the Merging Corporations as of the effective date of the merger shall execute, acknowledge and deliver such assignments or other instruments and do such acts as may be necessary or appropriate to evidence the vesting of title to such property or rights in the Surviving Corporation. For such purposes the capacity and authority of the Merging Corporations and their officers shall be deemed to be continuing.

C. The Surviving Corporation shall agree that it may be served with process in the State of Idaho and shall irrevocably appoint the Secretary of State of Idaho as its agent to accept service of process, in any proceeding for the enforcement of any obligation of the Merging Corporations arising in the State of Idaho prior to the effective date of the merger, and in any proceedings for the enforcement of the rights of a dissenting shareholder of the Merging Corporations against the Surviving Corporation.

## VIII.

### ACCOUNTING AND STATE CAPITAL

When the merger becomes effective, subject to such changes, adjustments or eliminations as may be made in accordance with generally accepted accounting principles, (a) the assets and liabilities of the Constituent Corporations shall be recorded in the accounting records of the Surviving Corporation at the amounts at which they shall be carried at that time in the accounting records of the Constituent Corporations, (B) the amount of stated capital with which the new Surviving Corporation shall begin business immediately after the effective date of the merger is \$1,323,499.00.

## IX.

### ABANDONMENT

This plan and Agreement of Merger may be abandoned by action of the Board of Directors of either Owsley Canal Company, or the Merging Corporations at any time prior to the effective date of the merger, whether before or after submission to their respective stockholders, upon the happening of the following:

1. If the merger fails to obtain the requisite vote of stockholders of Owsley Canal Company, or of Stockholders of the Merging Corporations not later than January 20, 1998.

X.

REPRESENTATIONS AND WARRANTIES

Owsley Canal Company, and the Merging Corporations shall each represent and warrant to the other that between the date hereof and the time when the merger becomes effective they will not enter into any employment contracts, grant any stock options or issue any stock or securities, or declare or pay any dividends in stock or cash or make any other distribution on or with respect to their outstanding stock.

XI.

EFFECTIVE DATE

The effective date of the merger provided for by this Agreement shall be the date on which the last act prior to recording required to complete the merger under the respective laws of the State of Idaho is performed.

SECOND: As to each of the undersigned corporations, the total number of shares voted for and against such Plan, respectively, and, as to each class entitled to a vote thereon as a class, the number of shares of such class voted for and against such Plan, respectively, are as follows:

	<u>Number of Shares</u>		
	<u>Total</u> <u>Voted</u> <u>For</u>	<u>Total</u> <u>Voted</u> <u>Against</u>	<u>Total</u> <u>Shares</u>
Owsley Canal Company	12,256	0	17,818
Holley Water Users Association, Inc.	2,828	0	2,978
Jackett Canal Company	3,078	0	3,107.3



OWSLEY CANAL COMPANY  
An Idaho Corporation  
(the "Surviving Corporation")

By: Garth Soderquist  
Garth Soderquist, President  
Dated: 1-9-98

ATTEST:

Kevin J. Christensen  
Kevin J. Christensen, Secretary  
Owsley Canal Company  
Dated: 1-9-98

HOLLEY WATER USERS  
ASSOCIATION, INC.

An Idaho Corporation  
(a "Merging Corporation")

By: Dwain Kirkham  
Dwain Kirkham, President  
Dated: 1-9-98

ATTEST:

LaMoyne Barney  
LaMoyne Barney, Secretary  
Holley Water Users Association, Inc.  
Dated: 1-9-98

JACKETT CANAL COMPANY  
An Idaho Corporation  
(a "Merging Corporation")

By: Edgar Green  
Edgar Green, President  
Dated: 1-9-98

ATTEST:

Todd Simmons  
Todd Simmons, Secretary  
Jackett Canal Company  
Dated: 1-9-98

ARTICLES OF MERGER — Page 7

Notary: Shawna Bare  
Residing at: Terreton, Idaho  
Commission Expires: 05-24-02

PLAN OF MERGER

BETWEEN

OWSLEY CANAL COMPANY  
An Idaho Corporation  
(The Surviving Corporation)

and

THE HOLLEY WATER USERS ASSOCIATION, INC., an Idaho Corporation; and THE  
JACKETT CANAL COMPANY, and Idaho Corporation, the Merging Corporations

FIRST

RECITALS

A. Owsley Canal Company is validly organized, existing and in good standing under the laws of the State of Idaho. All of the Merging Corporations are validly organized, existing and in good standing under the laws of the State of Idaho.

B. Owsley Canal Company, the Surviving Corporation, has an authorized 17,818 shares of common stock, irrigating 17,818 acres of land. Par value of \$1.00 per share. The By-laws of the Owsley Canal Company, with an effective date of January 19, 1981, show the Company with 17,527 shares, and two thousand seven hundred and forty-three (2,743) held in reserve as treasury stock.

At present the Company has issued 291 stock certificates to the original 17,527 of stock to make the 17,818 listed as the Surviving Corporation's stock to 17,818 shares of stock and 2,182 shares held by the corporation as treasury stock.

C. Holley Water Users Association, Inc. has 2,978 shares of common stock, irrigating 2,978 acres of land. Par Value of \$1.00 per share.

D. Jakkett Canal Company has 3,107.3 shares of common stock, irrigating 3,107.3 acres of land. Par value of \$1.00 per share.

E. The Boards of Directors of the Constituent Corporations will consider the proposed plan and if they determine that it is in the best interests of their respective corporations and stockholders that the Merging Corporations merge with and into Owsley Canal Company, in accordance with the provisions of applicable statutes of the States of Idaho, they will submit it to the stockholders of the respective Merging Corporations

## SECOND

### PLAN OF MERGER

The plan is to have the Constituent Corporations agree, each with the other, to merge into a single corporation which shall be Owsley Canal Company, the Surviving Corporation, (whose name shall not be changed and whose Articles of Incorporation shall not be amended in any respects as provided herein) pursuant to the laws of the State of Idaho, and shall agree upon and prescribe the terms and conditions of the statutory merger, the mode of carrying it into effect and the manner and basis of converting the shares of the Merging Corporations into shares of the Surviving Corporation, as herein set forth:

On the effective date of the merger, the Merging Corporations shall be merged with and into Owsley Canal Company, an Idaho Corporation, and the separate existence of the Merging Corporations shall cease; the Constituent Corporations shall become a single corporation named Owsley Canal Company, an Idaho Corporation, which shall be the Surviving Corporation.

### THIRD

#### ARTICLES OF INCORPORATION OF SURVIVING CORPORATION

The Articles of Incorporation of Owsley Canal Company, the Surviving Corporation, which are set forth in Exhibit "A" to this Plan, shall not be amended, and shall continue to be the Articles of Incorporation of the Surviving Corporation until further amended in accordance with the Corporation Laws of the State of Idaho.

Such Articles of Incorporation, as thus set forth, were certified by the Secretary of State of the State of Idaho on April 7, 1994.

### FOURTH

#### BY-LAWS OF SURVIVING CORPORATIONS

The By-Laws of Owsley Canal Company, in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation, until altered or repealed in the manner provided by law and such By-Laws.

### FIFTH

#### DIRECTORS AND OFFICERS OF SURVIVING CORPORATION

The Directors and Officers of the Owsley Canal Company, immediately prior to the effective date of the merger shall continue to be the Directors of the Surviving Corporation, to hold office for the terms specified in the By-Laws of the Surviving Corporation and until their respective successors are duly elected and qualified.

## SIXTH

### DIRECTORS OF THE MERGING CORPORATIONS

A. Two new directors, one each from the Merging Corporations, (a) the Jackett Canal Company, and (b) the Holley Water Users Association, Inc. shall be added to the present five member Board of the Surviving Corporation. The two new Board members shall be elected in the manner provided by the By-Laws of the Surviving Corporation. One new member shall be elected from the geographical location within the boundaries of the present boundaries of the Holley Water Users Association, Inc.. One new member shall be elected from the present boundaries of the Jackett Canal Company.

B. After the effective date of the merger, the Surviving Corporation's By-Laws shall be amended or altered to reflect the changes of the two new Board member additions. The amended By-Laws shall also describe the lands that will be used as a geographical area to be represented by the new additional directors. The By-Law changes shall be in the merger provided by law, and the By-Laws of the Surviving Corporation.

## SEVENTH

### MANNER AND BASIS OF CONVERSION OF SHARES

A. All shares of the Merging Corporations, (a) The Owsley Canal Company, (17,818 shares); (b) The Holley Water Users Association, Inc., (2,978 shares); (c) The Jackett Canal Company (3,107.3 shares) have been approved by the Idaho Department of Water Resources as being equal. One share of water per one acre of ground.

B. No shares of the capital stock of the Surviving Corporation have been issued. All stock to be issued by the Surviving Corporation, at the time of this merger, shall be issued to the shareholders of the Merging Corporations.

C. Each share of the Merging Corporation's Common Stock, which is issued and outstanding immediately prior to the effective date of the merger, shall by virtue of the merger be converted into and become, without action on the part of the holder of such Common Stock, fully paid and assessable shares of a Class of the Common Stock of the Surviving Corporation. Each outstanding certificate for Common Stock of the Merging corporations shall thereupon be deemed for all purposes to evidence ownership of the number of shares of Common Stock of the Surviving Corporation into which the same shall have been converted at the rate set forth above.

D. As soon as practicable after the effective date of the merger, each holder of outstanding certificates for Common Stock theretofore issued by the Merging Corporations shall be entitled, upon surrender of the same by such holder for cancellation, as directed by the Surviving Corporation, to receive new certificates for the number of shares of Common Stock of the Surviving Corporation to which he is entitled.

## EIGHTH

### EFFECT OF MERGER

A. On the effective date of the merger, the Surviving Corporation shall possess all the rights, privileges, powers, and franchises of a public as well as a private nature of each of the Constituent Corporations, and shall become subject to all the restrictions, disabilities, and duties of each of the Constituent Corporations and all of the singular rights, privileges, powers and franchises

of each of the Constituent Corporations. All water rights, canals, diversionary works, cash, bank, checking and savings accounts, and all other property, real personal and mixed, and debts due to each of the Constituent Corporations on whatever account, as well as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, assets, rights, privileges, powers, franchises and immunities, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective constituent Corporations; and the title to any real estate vested by deed or otherwise, in either of the Constituent Corporations, shall not revert or be in any way impaired by reason of the merger; provided, however, that all of the creditors and liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, obligations and duties had been incurred or contracted by it.

B. If at any time after the merger becomes effective it shall appear to the Surviving Corporation that any further assignments or assurances are necessary or desirable to evidence the vesting in the Surviving Corporation of the title to any of the property or rights of the Merging Corporations, those persons who were proper officers and directors of the Merging Corporations as of the effective date of the merger shall execute, acknowledge and deliver such assignments or other instruments and do such acts as may be necessary or appropriate to evidence the vesting of title to such property or rights in the Surviving Corporation. For such purposes the capacity and authority of the Merging Corporations and their officers shall be deemed to be continuing.

C. The Surviving Corporation shall agree that it may be served with process in the State of Idaho and shall irrevocably appoint the Secretary of State of Idaho as its agent to accept service of process, in any proceeding for the enforcement of any obligation of the Merging

Corporations arising in the State of Idaho prior to the effective date of the merger, and in any proceedings for the enforcement of the rights of a dissenting shareholder of the Merging Corporations against the Surviving Corporation.

#### NINTH

##### ACCOUNTING AND STATE CAPITAL

When the merger becomes effective, subject to such changes, adjustments or eliminations as may be made in accordance with generally accepted accounting principles, (a) the assets and liabilities of the Constituent Corporations shall be recorded in the accounting records of the Surviving Corporation at the amounts at which they shall be carried at that time in the accounting records of the Constituent Corporations, (b) the amount of stated capital with which the Surviving Corporation shall begin business immediately after the effective date of the merger is \$1,323,499.00.

#### TENTH

##### ABANDONMENT

This plan and Agreement of Merger may be abandoned by action of the Board of Directors of either Owsley Canal Company, or the Merging Corporations at any time prior to the effective date of the merger, whether before or after submission to their respective stockholders upon the happening of any one of the following events:

1. If the merger fails to obtain the requisite vote of stockholders of Owsley Canal Company, Inc., or of Stockholders of the Merging Corporations not later than January 20, 1998.



2. If, in the judgment of the Board of Directors of Owsley Canal Company, Inc., or of the Merging Corporations, the merger would be impracticable because of the number of stockholders of either thereof who assert their right to have their stock appraised and to receive payment therefore as provided in the Corporation Law of the State of Idaho.

#### ELEVENTH

#### REPRESENTATIONS AND WARRANTIES

The Owsley Canal Company, and the Merging Corporations shall each represent and warrant to the other that between the date hereof and the time when the merger becomes effective they will not enter into any employment contracts, grant any stock options or issue any stock or securities, or declare or pay any dividends in stock or cash or make any other distribution on or with respect to their outstanding stock.

#### TWELFTH

#### EFFECTIVE DATE

The effective date of the merger provided for by this Agreement shall be the date on which the last act prior to recording required to complete the merger under the respective laws of the State of Idaho is performed.