

RECORDER'S CERTIFICATE OF LIMITED PARTNERSHIP

I, Myrna W. Archibald, the County Recorder
of Caribou County, Idaho, do hereby certify that the
~~on~~ ^{on} 13 Certificate of Limited Partnership of Shyrl A.
~~on~~ ^{on} 13 Barker Co. was filed in the office of the County
Recorder of Caribou County, Idaho, on the 13 day of May,
1976.

This Certificate is executed at the request of the
named Partnership to enable it to provide the Secretary of State
a copy of the Certificate of Limited Partnership for filing,
pursuant to Idaho Code 53-267.

~~There have been no amendments to the Certificate of
Limited Partnership filed in this office.~~

DATED this 11 day of Feb., 19 87.

Darek Hansen Deputy
County Recorder of Caribou
County, Idaho.

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CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP

OF

SECRETARY OF
STATE

SHYRL A. BARKER & CO.

THIS CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP

is entered into as of this 14 day of September,
1974, by and between SHYRL A. BARKER (the "General Partner")
and those other persons (the "Limited Partners") whose names
and addresses are listed on Exhibit "A" which is attached
hereto and incorporated herein by this reference.

1. Formation. The General Partner and the Limited
Partners (herein collectively referred to as the "Partners")
hereby form a limited partnership pursuant to the provisions
of Idaho Code, Section 53-201-32, otherwise known as the
Uniform Limited Partnership Act of the State of Idaho. The
Partners agree to promptly file this Agreement and to perform
all other acts necessary to comply with the requirements for
the formation and operation of a limited partnership under the
laws of the State of Idaho.

2. Name. The name of the limited partnership
shall be SHYRL A. BARKER & CO.

3. Character of the Partnership's Business. The
purpose of the Partnership and the character of its business
shall be to acquire, own, hold, build upon, alter, improve,
farm, mine, operate, exploit, repair, sell, convey, assign,
lease, exchange, dispose of, pledge, mortgage and otherwise
deal with, alone or in conjunction with others, real property
or any interest therein, and personal property of every
kind, both tangible and intangible that may be used in
connection with such real property. In addition, it shall
be the purpose of this partnership and the character of its
business to enter into general or limited partnerships.

STATE OF IDAHO } 118911
County of Caribou }
I hereby certify that this instrument was filed
at the request of Shyrl A. Barker
at 10:25 o'clock a.m. 20 day of
December, 1974 in my office and duly
recorded in Microfilm Records
Myrna W. Archibald
Myrna W. Archibald
Notary Public
State of Idaho
Myrna W. Archibald
Notary Public
State of Idaho

joint ventures, syndicates and similar unincorporated entities which have principal purposes similar to those set out above. This partnership may be a general or limited partner, member co-venturer or any similar party to such arrangements, and shall have full power to participate in, manage and operate such entities to any reasonable extent allowed by the instruments establishing such entities, or by law.

4. Principal Place of Business. The principal place of business of the Partnership shall be located at Star Route, Soda Springs, Idaho 83276 or at such other place as the General Partner may from time to time designate by written notice to the Limited Partners. In addition, the General Partner may designate and establish other additional offices or locations from which the Partnership may carry out its business.

5. General Partner. The name and residence of the General Partner is Shyrl A. Barker, Star Route, Soda Springs, Idaho 83276.

6. Limited Partners. The names and respective places of residence of the Limited Partners are set out on Exhibit "A".

7. Term. The Partnership shall commence business as of the date this certificate is filed with the County Clerk of the County in which the Partnership has its principal office. The Partnership shall continue in existence until terminated pursuant to Section 20 hereof.

8. Contributions of General Partner. The General Partner, as such, shall make no initial cash contribution to the capital of the Partnership and shall receive no capital interest. The General Partner is also a limited partner. The interests, rights and obligations of any such individual as a general partner and as a limited partner shall at all

times be kept separate and distinct, for all purposes under this Limited Partnership Agreement.

9. Contributions of Limited Partners. The Limited Partners shall make no cash contribution to the Limited Partnership. A description of the property contributed to the Partnership by each limited partner and the agreed value thereof is set forth on Exhibit "B" which is attached hereto and incorporated herein by this reference.

9.1 Partner's Interest in Capital. As of the execution of this Partnership Agreement, the respective interest of each limited partner in the capital of the partnership areas set forth on Exhibit "C" which is attached hereto and incorporated herein by this reference changes in respective interests of the partners shall be evidenced by amendments in the form of Exhibit "C".

9.2 General Provisions.

(a) No interest shall be paid on contributions.

(b) Contributions shall be used by the partners in furtherance of the business of the partnership. No partner shall have the right to withdraw from the partnership or to demand a return of any part of his contribution, interest, or other funds of the partnership except as herein provided.

9.3 Modification of Interest. The respective interests of the partners in the partnership capital shall at all times be maintained in the same ratios as set forth in Section 9.1 above unless modified by unanimous agreement of the Limited Partners, or as a result of additional contributions to capital, return of contributions, alienation of an interest or part thereof by a limited partner pursuant to Section 18, shall be recorded on and evidenced by an executed, written

amendment hereto in the form set forth in Exhibit "C" which is attached hereto and incorporated herein by this reference. Such a modification of each partner's respective interest in the capital of the partnership shall be proportionate to its total capital contributions and income additions to date less distributions to date.

9.4 Distributions from Partnership Capital.

No distributions shall be made from partnership capital except upon unanimous agreement of the limited partners. In the event that distributions of partnership capital are made to partners in a manner disproportionate to their relative interests in such capital, then an adjustment of their relative interests shall be made as provided in Section 9.2 hereof.

10. Additional Contribution of Limited Partners.

No provision is made herein for the limited partners to make additional contributions to the Limited Partnership. If the General Partner determines that additional capital is necessary for the conduct of the Partnership's business each Limited Partner may be requested to make additional contributions in proportion to their current interests in the partnership. Limited Partners shall make such additional contribution within 30 days after receiving written notice of the necessity for each additional cash contribution. If any Limited Partner shall choose not to make any such additional contribution within such 30-day period, his respective interest in the capital and income of the Limited Partners shall be appropriately adjusted to reflect for all purposes from that time forward the failure of such Limited Partner to make a contribution.

11. Time When the Contribution of Each Limited Partner is to be Returned. Upon dissolution of the Partnership the proceeds therefrom shall be distributed to the

Limited Partners in proportion to their respective interests in the Partnership capital. The distribution of net assets referred to above may be made in cash or in kind as the general partner shall determine and the value of distributions in kind shall be the fair market value of the distributed assets at the time of distribution as set by limited partners holding at least 60% interest in the capital of the limited partnership. A limited partner's capital contribution will be returned as above provided only to the extent there are sufficient assets to be distributed.

12. Compensation; Profits Losses.

12.1 Compensation to General Partner for Services. The partnership shall pay to the General Partner reasonable compensation for services rendered to the partnership. The compensation payable pursuant to this section shall be set by approval agreement of a majority of the limited partnership interests but must be based upon the amount that would ordinarily be paid in order to obtain comparable services from a person not having an interest in the partnership.

12.2 Compensation For Expenses. The Partnership shall pay for any and all expenses incurred by the General Partner for and on behalf of the Partnership and shall reimburse the General Partner for any such expenses advanced by him.

12.3 Allocation of Income and Related Items.

All net profits or net losses and each item of income, gain, loss, deduction or credit of the partnership shall be allocated among the partners in the same proportion as their respective interests in the capital of the partnership, as set out in Section 9.1 or the latest executed amendment thereto, bear to one another. Profits and losses and each item of income, gain, loss, deduction or credit shall be

determined in accordance with generally accepted accounting principals, except as may be expressly provided to the contrary.

13. Distributions. Distributions of accumulated net profits less accumulated net losses may be made at any time that there is sufficient cash or other property in the partnership which the General Partner, in his absolute discretion, determine is not needed in the operation thereof, either for working capital needs, improvements or other contingencies. All such distributions shall be made to the limited partners in proportion to their interests in the capital of the partnership.

14. Continuation of Business upon Death, Retirement or Insanity of a General Partner. Upon the death, disability, retirement or insanity of the General Partner, the Partnership shall continue to exist until the close of the fiscal year in which such death whereupon it shall be expeditiously dissolved, unless Limited Partners owning at least 50% of the capital accounts in the Partnership elect to continue the Partnership and agree in writing within 60 days after the end of such fiscal year on a new General Partner or partners in which event the Partnership shall not be dissolved, and the newly named General Partner or partners shall become the successor general partner or partners.

15. Status of Limited Partners.

15.1 No Limited Partner as such shall be personally liable for any debts or obligations of the Partner or for any of the losses of the Partnership beyond the amount contributed by him to the capital of the Partnership and his share of undistributed profits of the Partnership.

15.2 No Limited Partner shall have priority over any other Limited Partner either as to the return of

capital contributions or as to net profits, net losses, or distributions.

16. Rights and Powers of the General Partner.

16.1 The General Partner shall have full, exclusive and complete discretion in the management and control of the Partnership and its business for the purposes herein stated and shall make all decisions affecting the Partnership's affairs. The General Partner shall have full power and authority on behalf of the Partnership to take any action which the General Partner may deem necessary or advisable or incidental to the business of the Partnership and to execute and deliver on behalf of the Partnership such documents or instruments as the General Partner deems appropriate in its conduct of the Partnership business. No person, firm or corporation dealing with the Partnership shall be required to inquire into the authority of the General Partner to take any action or make any decisions.

16.2 In addition to any other rights and powers which it may possess, the General Partner shall have all specific rights and powers required for or appropriate to its management and control of the Partnership business, including by way of illustration but not by way of limitation the following rights and powers, all costs and expenses in connection with which shall be paid for by the Partnership:

(a) To borrow money, and, if security is required therefor, to mortgage or subject to any other security device any portion of the property of the Partnership; to obtain replacements of any mortgage or other security device, and to prepay, in whole or in part, refinance, increase, modify, consolidate, or extend any mortgage or other security device, all of the foregoing at such terms and in such amounts as it

deems in its absolute discretion to be in the best interests of the Partnership. Any such borrowing may be from the General Partner.

(b) To place record title to, or the right to use, Partnership assets in the name of the General Partner or the name or names of a nominee or nominees for any purpose convenient or beneficial to the Partnership.

(c) To acquire and enter into any contract of insurance which the General Partner deems necessary and proper for the protection of the Partnership, for the conservation of its assets, or for any purpose convenient or beneficial to the Partnership.

(d) To employ persons in the operation and management of the Partnership properties. Such services may be performed by the General Partner or by companies that are affiliated with the General Partner, and standard fees will be paid by the Partnership for such service, as determined by the General Partner.

(e) To employ attorneys and/or accountants to represent the Partnership.

16.3 The General Partner shall devote himself to the Partnership's business to the extent that the General Partner, in his discretion, determines to be necessary for the efficient conduct thereof, but nothing herein contained shall preclude the General Partner from engaging or possessing an interest in other business ventures of every nature and description, including business ventures substantially identical to the Partnership, and neither the Partnership nor the Limited Partners shall have any interest by virtue of this Agreement in any such other business ventures or the income or profits derived therefrom.

16.4 The General Partner shall not be liable to the Partnership or the Limited Partners for errors in judgment or for any acts of omission, whether or not disclosed, that do not constitute willful misconduct. The Partnership shall indemnify the General Partner from the assets of the Partnership, against any loss or damage incurred by the General Partner by reason of any act performed by it in good faith on behalf of the Partnership.

17. Accounting.

17.1 Fiscal Year. The fiscal year of the partnership shall be established by the General Partner.

17.2 Bank Accounts. The firm shall maintain checking or other accounts in the partnership name in such bank or banks as the partners shall unanimously determine. Any and all proceeds received by the partnership shall be deposited in such account or accounts. Withdrawals shall be on such signatures as may be agreed upon by a unanimous vote of the managers.

17.3 Accounting Records. The partnership shall maintain proper and complete accounting records. Such books shall be kept on such basis of accounting as the General Partner may determine. All books, records and accounts of the firm shall be open at all reasonable times to inspection by an agent of any partner, or by any general or limited partner of a limited partnership which is a partner hereof.

17.4 Closing of Books. The firm books shall be closed as of the last day of its fiscal year, and a full, true, and accurate account shall be made in writing of all of the assets and liabilities of the partnership, and of all of its receipts and disbursements, and the net profits or net losses shall be fixed and determined. In preparing such

account, there shall be charged all expenses of the business, and also, all losses and other charges incident or necessary to the carrying on of the business.

17.5 Annual Statements. Within 75 days after the close of each fiscal year, the partnership shall cause to be delivered to each limited partnership which is a member hereof, a balance sheet and income statement prepared or audited by the partnership accountant showing all income, receipts, fees, costs, and expenses incurred in connection with the operation of the partnership's properties and disbursements for the previous year. The statement will be in good form and in accord with generally accepted accounting principles for reporting the financial condition of the partnership and results of its operation. The partnership will also provide each limited partnership with Federal and Utah and/or Idaho Partnership Returns of Income with respect to his distributive share of profits and losses, and other information necessary for income tax reporting purposes. Such tax returns shall be deemed conclusive and binding upon the partners unless objections are lodged with the partnership within 30 days after the delivery of such returns to the partners. If the partners unanimously request a change in any accounting or tax matter of the partnership, the change will be made.

17.6 Partnership Tax Elections. Where profit or loss can be affected by elections made by the partnership, and all choices are in conformity with generally accepted accounting principles, the choice of election shall be made by a two-thirds vote of the voting power of the partnership.

18. Transfer of Partnership Interests.

18.1 The Partnership interest of the General

Partner, as such may not be assigned, transferred, or otherwise disposed of during the life of the General Partner.

After the death of the General Partner, the limited partners may, pursuant to Section 14, elect to continue the Partnership and name a General Partner who shall succeed to the interest of the General Partner; provided such general partner shall own or be caused to own at least a one percent (1%) interest in the capital and profits and losses of the partnership.

18.2 The Partnership interest of a Limited Partner may be transferred, assigned, or otherwise disposed; provided, however, that such disposition shall be subject to a right of first refusal in the general partner to acquire such interest. The Limited Partner must first offer in writing delivered to the General Partner so much of his interest as he proposes to dispose of. The writing shall name the price and the term upon which he will sell that interest. The General Partner shall have 120 days to exercise the option. The option shall be exercised in a writing delivered to the Limited Partner offering the interest. After such 120 period the Limited Partner may transfer such interest to any person whatsoever, provided that such transfer must be upon the same terms and the price must be equal to or higher as the offer of the General Partner.

18.3 The assignee of the whole or any portion of a Limited Partner's interest in the Partnership shall not become a substituted Limited Partner in the place of his assignor until the assignee shall have executed and delivered to the Partnership such instruments as the General Partner may deem necessary or desirable to effect such transfer and substitution.

18.4 Upon the death or legal incompetency of an individual Limited Partner (or in the case of a Limited Partner that is a corporation, association, partnership, joint venture, or trust, the dissolution of such Limited

Partner), the person representative, guardian, or other successor in interest of such Limited Partner shall have all the rights of a Limited Partner for the purposes of settling the estate or business of such Limited Partner and shall have the power which such Limited Partner possessed to assign such Limited Partner's interest in the Partnership subject to the conditions of subsection 18.2 and to cause such assignee to become a substituted Limited Partner subject to the conditions of subsection 18.3.

19. Admission of New Limited Partners. The General Partner shall have the right to cause the Partnership to sell additional interest in the Partnership and to admit additional Limited Partners to the Partnership if and only if the General Partner finds that additional funds are needed by the partnership and is unable to raise the same as provided in Section 10; provided, that, any Limited Partner may transfer all or any part of an existing limited partnership interest to any person not currently a party to this agreement in accordance with Section 18 hereof.

20. Dissolution.

20.1 The Partnership shall be dissolved upon the occurrence of any of the following events:

- (a) The bankruptcy of the General Partner.
- (b) Sixty (60) days after the General Partner's written notice of election to terminate the Partnership, which written notice may be given to the Limited Partners by the General Partner at its sole discretion.
- (c) The written consent or affirmative vote to dissolve the Partnership by Limited Partners owning 75% or more interests owned by all Limited Partners.

(d) An event which makes it unlawful for the Partnership business to be continued.

(e) Upon the death, disability, retirement or insanity of a General Partner, except as provided in Section 14.

20.2 The Partnership shall not be terminated by the death, legal disability, bankruptcy, or dissolution of any Limited Partner except as herein provided.

20.3 Upon dissolution of the Partnership, the General Partner shall immediately commence to wind up and liquidate the Partnership business. In liquidating the Partnership business, the General Partner may either sell all or part of the Partnership assets and distribute the proceeds or may make distributions completely or partially in kind. Such assets or proceeds therefrom, to the extent sufficient, shall be applied and distributed in the order provided by law. The General Partner shall not be personally liable to the Limited Partners for the return of their contributions unless such insufficiency is the result of the willful misconduct of the General Partner.

21. Amendments.

21.1 This Agreement may be amended by written consent of Limited Partners owning sixty percent (60%) or more of the Units of interest in the Partnership and by written consent of the General Partner; provided that to the extent this Agreement is used as a certificate of limited partnership for the purpose of filing or recording under state or local law, the General Partner without the consent of any Limited Partners shall have the right to amend this Agreement for the purpose of reflecting the admission, withdrawal, substitution, or change in capital contribution of a Limited Partner, or any other change which the General Partner is authorized to approve.

21.2 Notwithstanding Section 21.1, no amendment shall change the Partnership to a general partnership, change the term of the Partnership, or change the liability of the General Partner or the limited liability of the Limited Partners.

22. Notices. Notices required or permitted by this Agreement shall be in writing and shall be sent in the case of the General Partner or the Partnership to the principal place of business of the Partnership and, in the case of the Limited Partners, to the address for each shown on the records of the Partnership.

23. Validity. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Agreement or the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

24. Section Headings. All section headings of this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

25. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Partners, their respective legal representatives, heirs, successors and assigns.

26. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties have executed this Certificate and Agreement of Limited Partnership as of the _____ day of _____, 1974.

GENERAL PARTNER:


SHYRL A. BARKER

LIMITED PARTNERS:

Shyrl A. Barker
SHYRL A. BARKER

Ann N. Barker
ANN N. BARKER

Larane B. Hogan
LARANE B. HOGAN

Dean S. Barker
DEAN S. BARKER

Glen Alvin Barker
GLEN ALVIN BARKER

Dow S. Barker
DOW S. BARKER

STATE OF IDAHO

)
) ss.
)

COUNTY OF Caribou

On this 14th day of September, in the
year 1974, before me, a Notary Public, personally appeared
SHYRL A. BARKER, ANN N. BARKER, LARANE B. HOGAN, DEAN S.
BARKER, GLEN ALVIN BARKER and DOW S. BARKER known to me to
be the persons whose names are subscribed to the within
instrument, and acknowledged that they executed the same.

Low S. Davis
NOTARY PUBLIC
Residing at Salmon Springs, Idaho

My Commission Expires:

1978