

# State of Idaho



## CERTIFICATE OF MERGER OR CONSOLIDATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho hereby certify that  
duplicate originals of Articles of Merger of \_\_\_\_\_

ACTION FREIGHT, INC.

into ACTION EXPRESS, INC.,

duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have  
been received in this office and are found to conform to law.

ACCORDINGLY and by virtue, of the authority vested in me by law, I issue this certificate of

Merger

, and attach hereto a duplicate original of the Articles of

Merger

Dated June 30, 19 81.



*Pete T. Cenarrusa*

SECRETARY OF STATE

\_\_\_\_\_  
Corporation Clerk

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SECRETARY OF  
STATE

ARTICLES OF MERGER  
OF DOMESTIC CORPORATION  
INTO  
ACTION EXPRESS, INC.

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:

PLAN AND AGREEMENT OF MERGER

THIS PLAN AND AGREEMENT OF MERGER, dated this 10th day of June, 1981, by and between ACTION EXPRESS, INC., an Idaho corporation, hereinafter referred to as the "Surviving Corporation," and ACTION FREIGHT, INC., an Idaho corporation, hereinafter referred to as the "Merging Corporation," said corporations being sometimes referred to collectively hereinafter as the "Constituent Corporations";

WITNESSETH, that

WHEREAS, the Surviving Corporation is validly organized, existing and in good standing under the laws of the State of Idaho with authorized capital of 45 shares of common stock, no par value, all of which shares have been issued and are presently outstanding and constitute the entire capital stock of the Surviving Corporation; and

WHEREAS, the Merging Corporation is validly organized, existing and in good standing under the laws of

the State of Idaho with authorized capital of 100,000 shares of common stock, par value of \$1.00 each, of which at the date hereof 60,000 shares have been issued and are outstanding and 40,000 shares are held in its treasury; and

WHEREAS, the Boards of Directors of the Constituent Corporations have deemed it advisable and in the best interests of their respective corporations and stockholders to merge said Merging Corporation with and into the Surviving Corporation in accordance with the provisions of applicable statutes of the State of Idaho;

NOW, THEREFORE, intending to be legally bound hereby, the parties covenant and agree as follows:

Section 1. AGREEMENT OF MERGER. The Constituent Corporations agree that on the effective date of the merger, the Merging Corporation shall be merged with and into ACTION EXPRESS, INC., and the separate existence of the Merging Corporation shall cease, and the Constituent Corporations shall thereupon become a single corporation under the name of "ACTION EXPRESS, INC.," an Idaho corporation, which shall be the Surviving Corporation.

Section 2. ARTICLES OF INCORPORATION OF SURVIVING CORPORATION. The Articles of Incorporation of ACTION EXPRESS, INC., which are set forth in Exhibit "A" to this Agreement shall be amended in the following particulars:

(a) Article III of the Articles of Incorporation shall be amended to read:

The address of the registered office of the corporation is 4465 Industrial Street, Boise, Idaho, and the name of its initial registered agent at such address is William L. Miller.

(b) Article IV of the Articles of Incorporation shall be amended to read:

The purpose for which the corporation is organized is the transaction of any and all lawful business for which corporations may be

incorporated under the Idaho Business Corporation Act, being Chapter 1 of Title 30, Idaho Code, and amendments thereto.

(c) Article VI of the Articles of Incorporation shall be amended to read:

The aggregate number of shares which the corporation shall have authority to issue is Ten Million (10,000,000) shares of common stock with a par value of Ten Cents (10¢) each.

(d) Articles V, VII, VIII and X of the Articles of Incorporation shall be deleted in their entirety.

Said Articles of Incorporation, as amended, shall constitute the Articles of Incorporation of the Surviving Corporation and may be certified separately from this Agreement as the amended Articles of Incorporation of the Surviving Corporation.

Section 3. BY-LAWS OF SURVIVING CORPORATION. The By-Laws of ACTION EXPRESS, INC., in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation until amended or repealed in the manner provided by law and under such By-Laws.

Section 4. DIRECTORS AND OFFICERS OF SURVIVING CORPORATION. The directors and officers of ACTION EXPRESS, INC., immediately prior to the effective date of the merger shall continue to be the directors of the Surviving Corporation and shall hold office for the term specified in the By-Laws of the Surviving Corporation and until their respective successors are duly elected and qualified.

Section 5. MANNER AND BASIS OF CONVERSION OF SHARES. The manner of converting the shares of the Merging Corporation into shares of common stock of the Surviving Corporation shall be as follows:

(a) Each share of common stock of ACTION EXPRESS, INC., issued and outstanding or in its treasury immediately prior to the effective date of merger shall by virtue of the merger be converted into and shall become without further action on the part of the holder of such common stock, Thirteen Thousand (13,000) shares of fully paid and nonassessable common stock of the Surviving Corporation with a par value of 10¢ per share.

(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 shall become, without further action on the part of holder of such common stock, three (3) shares of fully paid and nonassessable common stock of the Surviving Corporation with a par value of 10¢ per share. Each outstanding certificate of common stock of the Merging Corporation shall thereupon be deemed for all purposes to evidence ownership of the number of full shares of common stock of the Surviving Corporation into which the same shall have been converted at the rate set forth above; provided, however, that until the holder of such certificate shall have surrendered the same for exchange as set forth hereinafter, no dividend payable to holders of record of common stock of the Surviving Corporation as of any date subsequent to the effective date of the merger shall be paid to such holder with respect to the common stock of the Surviving Corporation represented by such certificate. However, upon surrender and exchange of such certificate as herein provided, there shall be paid to the record holder of the certificate or certificates of common stock of the Surviving Corporation issued in exchange therefor an amount with respect to such shares of common stock equal to all dividends, without any interest thereon, which shall have been paid or shall become payable to holders of record of common stock of the Surviving Corporation between the effective date of the merger and the date of such exchange.

(c) On the effective date of the merger, each holder of outstanding certificates for common stock theretofore issued by the Constituent Corporations shall, upon surrender of the same by such holder for cancellation, be entitled to receive new certificates for the number of shares of common stock of the Surviving Corporation to which he is entitled.

(d) On the effective date of the merger, any shares of common stock of the Merging Corporation which are then held in its treasury shall be canceled and retired without further action, and no shares of common stock of the Surviving Corporation shall be issued in respect thereof.

Section 6. EFFECT OF MERGER. On the effective date of the merger, the Surviving Corporation shall possess all of the rights, privileges, immunities and franchises, of a public as well as of a private nature, of each of the Constituent Corporations, and shall become subject to all of the restrictions, disabilities and duties of each of the Constituent Corporations and to all of the singular rights, privileges, powers and franchises of each of the Constituent Corporations. All property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged, shall be taken and deemed to be transferred to and vested in such Surviving Corporation without further act or deed, and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger. The Surviving Corporation shall thence forth be responsible and liable for all of the liabilities and obligations of each of the Constituent Corporations so merged; and any claim existing or action or proceeding pending by or against any of such Constituent Corporations may be prosecuted as if such merger had not taken place, or such Surviving Corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger. The Articles of Incorporation of the Surviving Corporation shall be deemed to be amended to the extent, if any, that changes in its Articles of Incorporation are stated in this Plan And Agreement of Merger upon the effective date of the merger, the shares of the Merging Corporation shall cease to exist and the holders of such shares shall thereafter be entitled only to the shares, obligations, other securities, cash and other property unto which they shall have been converted or for which they shall have been exchanged in accordance with the plan, subject to any rights under Section 30-1-80 of the Idaho Code.

Section 7. FURTHER ASSURANCES. 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 of the title in the Surviving Corporation to any of the property or rights of the Merging Corpora-

tion, those persons who were proper officers and directors of the Merging Corporation 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 Corporation and its officers shall be deemed to be continuing.

Section 8. ACCOUNTING AND STATED CAPITAL. Upon the effective date of the merger, subject to such changes, adjustments or eliminations as may be made in accordance with generally accepted accounting principles, the assets and liabilities of the Constituent Corporations shall be recorded in the accounting records of the Surviving Corporation and the amount of stated capital shall be One Million Dollars (\$1,000,000).

Section 9. REPRESENTATIONS AND WARRANTIES. The Constituent Corporations 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.

Section 10. EFFECTIVE DATE. The effective date of the merger provided for by this Agreement shall be July 1, 1981.

SECOND: As to each of the undersigned corporations, the number of shares outstanding, and the designation and number of outstanding shares of each class entitled to vote as a class on such Plan, are as follows:

<u>Name of Corporation</u>	<u>Number of Shares Outstanding</u>	<u>Entitled to Vote as a Class Designation of Class</u>	<u>Number of Shares</u>
Action Express, Inc.	45 shares	Common Stock	45 shares
Action Freight, Inc.	60,000 shares	Common Stock	60,000 shares

THIRD: 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 vote thereon as a class, the number of shares of such class voted for and against such Plan, respectively, are as follows:

<u>Name of Corporation</u>	<u>Total Voted For</u>	<u>Total Voted Against</u>	<u>Entitled to Vote as a Class Class</u>	<u>Entitled to Vote as a Class</u>	
				<u>Voted For</u>	<u>Voted Against</u>
Action Express, Inc.	45	-0-	Common	45	-0-
Action Freight, Inc.	60,000	-0-	Common	60,000	-0-

DATED this 10th day of June, 1981.

ACTION EXPRESS, INC.

ATTEST:

*Nehemiah L. Ladd*  
Secretary

By *William L. Miller*  
President

ACTION FREIGHT, INC.

ATTEST:

*Nehemiah L. Ladd*  
Secretary

By *William L. Miller*  
President

STATE OF IDAHO )

County of Ada )

I, Jean Dickson, a notary public, do hereby certify that on this 10th day of June, 1981, personally appeared before me WILLIAM L. MILLER, who, being by me first duly sworn, declared that he is the President of ACTION EXPRESS, INC., an Idaho corporation, that he signed the foregoing document as President of the corporation, and that the statements therein contained are true.

*Jean Dickson*  
Notary Public for Idaho  
Residing at Boise, Idaho



STATE OF IDAHO     )  
                             :  
County of Ada        )

I, Jean Dickson a notary public, do hereby certify that on this 10th day of June, 1981, personally appeared before me WILLIAM L. MILLER, who, being by me first duly sworn, declared that he is the President of ACTION FREIGHT, INC., an Idaho corporation, that he signed the foregoing document as President of the corporation, and that the statements therein contained are true.

  
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Notary Public for Idaho  
Residing at Boise, Idaho