

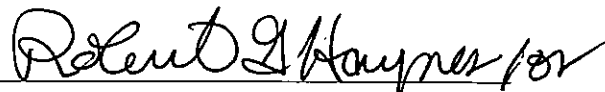
[illegible][illegible][illegible][illegible][illegible][illegible]

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-10603

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2014**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
7. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 2.5 acre-feet or a total surface area of 0.3 acres.
10. Right 95-10603 authorizes the diversion for an annual storage total of 24.4 acre-feet to be used for the initial filling of the ponds, the replacement of losses caused by seepage and evaporation, fire protection storage, aesthetic storage and irrigation storage.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Coeur d'Alene, this 1st day of December, 2009.


GARY SPACKMAN, Interim Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 2, 2009

JAMES DAY
PO BOX 1026
HAYDEN ID 83835

ROSE E DAY
PO BOX 1026
HAYDEN ID 83835

RE: Permit No.95-10603

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 762-2800.

Sincerely,


Keith E. Franklin
Sr. Water Resources Agent

Enclosure(s)

CERTIFICATE OF SERVICE

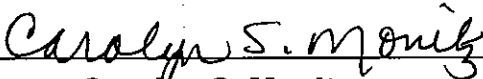
I hereby certify that on December 2, 2009 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-10603

**JAMES DAY
PO BOX 1026
HAYDEN ID 83835**

**ROSE E DAY
PO BOX 1026
HAYDEN ID 83835**



**Carolyn S. Monitz
Technical Records Clerk**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. Note: the petition must be received by the department within this fourteen (14) day period. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

AUG 14 2009

Kelli Buley

IDWR / NORTH

being first duly sworn

upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice

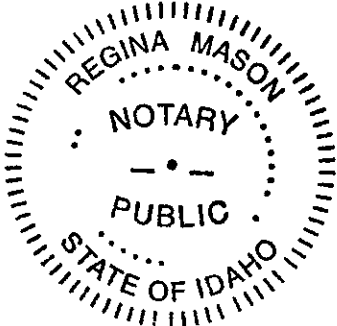
of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 6 day of August, 2009, and ending on the 13 day of August, 2009, and such publication was made as often during said period as said Daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Kelli Buley. On this 13 day of August in the year of 2009, before me, a Notary Public, personally appeared Kelli Buley, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason

Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.

MY COMMISSION EXPIRES 6/18/15



NOTICE OF CORRECTION
NOTICE IS HEREBY GIVEN THAT APPLICATION FOR PERMIT NO. 95-10603 in the name of JAMES DAY &/or ROSE E DAY, PO BOX 1026, HAYDEN, ID 83835, was incorrectly advertised on July 16 and 23, 2009.

The name of ROSE E DAY should also have been included. Also, when listing the IRRIGATION Place of Use, the Number of acres was inadvertently left off of the publication notice. Correctly that should have appeared as follows:

Place of Use: IRRIGATION
T52N R03W S9 SENE

Number of acres: 5

(For additional information concerning the property location, call the Northern Regional Office at 762-2800.)

Any protests against the approval of the above-referenced correction must be filed with the applicant and with the Director, Dept. of Water Resources, 7600 N Mineral Drive, Suite 100, Coeur d'Alene, Id. 83815 together with a protest fee of \$25.00 on or before August 24, 2009.

GARY SPACKMAN, Interim Director
Legal 7202
August 6, 13, 2009

**IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**

W.R. # 95-10603

APPLICATION ID # 75602

ENT. 6/15/09 BCA 7/9/09 OK to Publish 7/9/09

INITIAL REVIEW

APPLICANT: John & Rose Day

BY: KJS DATE: 6/11/09

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☒ Source
3. ☒ Point of Diversion & County
4. ☒ Quantity
☒ Nature of Proposed Use
☒ Period of Use
5. ☒ Total Quantity
6. ☒ Description of diverting works
7. ☒ Time required for b/u
8. ☒ Proposed use
9. ☒ Place of use or acres irrigated
10. ☒ Other water Rights
11. ☒ Ownership
12. ☒ Map
☒ Signature
☒ Fee (Amt, receipt, acknowledgement)

*** Send info sheet Y () N ()

ADDITIONAL INFORMATION

- (Yes)(No)
- ☒ Shape File Created Date 6/11/09 By: KJS
- ☐ Field check: by _____
- ☐ Field report attached
- ☐ Analysis Supp. attached (>5cfs/500af)
- ☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No) PRIORITY DATE: 5/29/09

☒ (Include Moratorium Remark)
☒ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

ADVERTISE IN:

County: Kootenai
Newspaper: Idaho Press
Dates scheduled for publication: 7/24/09 8/13/09
Affidavit of Publication received: 7/24/09 8/14/09
Dates actually published: 7/16/09 7/23/09 8/6/09 8/13/09
Application published correctly. Yes ☒ No ☐
If not, action taken: no adv to include # again

Final Date for Protest: 8/24/09

Protests Received: Yes _____ No ☒

LETTERS SENT REQUESTING:

- () Dam Information () Fish Information
() Power Information () Other: _____

INFORMATION RECEIVED:

- () Dam Information () Fish Information
() Power Information () Other: _____

GROUNDWATER SECTION

WD Permit No.'s: <u>839650</u>	Tag # <u>000414</u>	Type: <u>Dom.</u> Non-Dom. _____	Fees Paid \$ <u>125.00</u>	Receipt No. <u>N030748</u>	Upgrade Needed? <u>Y() N()</u> <u>Paid</u>
_____	_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y() N()
_____	_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y() N()

- ☐ Groundwater management area
- ☐ Critical ground water area
- ☐ Well Drilling Permit required
- ☐ Well Drilling Application and Fees received
- ☐ Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

- (Yes)(No)
- ☒ Notice of pending void order issued. Final order response date: _____/_____/_____
- ☒ Further information required from applicant

- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: _____
- ☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: Barth J. Smith Date: 10/5/09 Sr. Agent initial KJS

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

SS.

JUL 24 2009

IDWR / NORTH

Kelli Buley

being first duly sworn

upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 16 day of July 20 09, and ending on the 23 day of July 20 09, and such publication was made as often during said period as said Daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice. Kelli Buley On this 23 day of July in the year of 2009, before me, a Notary Public, personally appeared Kelli Buley, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason

Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.

MY COMMISSION EXPIRES 6/18/15



The following application(s) have been filed to appropriate the public waters of the State of Idaho:

95-10585

WILLIAM BIXBY

24120 N DERTING RD

HAYDEN, ID 83835

Point of Diversion NWSENE S9 T52N R03W KOOTENAI CO

Source SPRING Tributary to SINKS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 5/27/2009

Place Of Use: DOMESTIC

T52N R03W S9 NESW

Domestic use is for 1 home.

95-10600

CLIFFORD ROATCH

1527 N WILLAMETTE DR

POST FALLS, ID 83854

Point of Diversion SENE S7 T53N R04W KOOTENAI CO

Source SPIRIT LAKE Tributary to SPIRIT CREEK

Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 5/29/2009

Place Of Use: DOMESTIC

T53N R04W S7 NESE

Domestic use is for 1 home.

95-10603

JAMES DAY

PO BOX 1026

HAYDEN, ID 83835

Point of Diversion SWSENE S9 T52N R03W KOOTENAI CO

Source SPRING Tributary to UNNAMED STREAM

Point of Diversion SWSENE S9 T52N R03W KOOTENAI CO

Source SPRING Tributary to UNNAMED STREAM

Point of Diversion SWSENE S9 T52N R03W KOOTENAI CO

Source UNNAMED STREAM Tributary to SINKS

Point of Diversion SWSENE S9 T52N R03W KOOTENAI CO

Source UNNAMED STREAM Tributary to SINKS

Point of Diversion SENE S9 T52N R03W KOOTENAI CO

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.15 CFS
Use: IRRIGATION STORAGE 01/01 to 12/31 19.4 AF
Use: IRRIGATION FROM STORAGE 03/15 to 11/15 15 AF
Use: WILDLIFE STORAGE 01/01 to 12/31 4.4 AF
Use: RECREATION STORAGE 01/01 to 12/31 4.4 AF
Use: FIRE PROTECTION 01/01 to 12/31 0.15 CFS
Use: FIRE PROTECTION STORAGE 01/01 to 12/31 4.4 AF
Use: FIRE PROTECTION FROM STRGE 01/01 to 12/31 2.5 AF
Use: AESTHETIC 01/01 to 12/31 0.09 CFS
Use: AESTHETIC STORAGE 01/01 to 12/31 4.4 AF
Use: AESTHETIC FROM STORAGE 01/01 to 12/31 2.5 AF
Use: DIVERSION TO STORAGE 01/01 to 12/31 0.15 CFS
Total Diversion: 0.15 CFS 24.4 AF

Date Filed: 5/29/2009

Place Of Use: IRRIGATION

T52N R03W S9 SENE

Place of Use: All other uses same as IRRIGATION

95-10616

RICHARD G WITTER

525 E 12TH AVE

SPOKANE, WA 99202

Point of Diversion NENE S24 T53N R05W KOOTENAI County

Source SPIRIT LAKE Tributary to SPIRIT CREEK

Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 6/2/2009

Place Of Use: DOMESTIC

T53N R05W S24 NENE

Domestic use is for 1 home.

95-10639

MC CAULEY EMERALD OWNERS ASSN INC

PO BOX 3333

HAYDEN, ID 83835

Point of Diversion NWNE S3 T51N R03W KOOTENAI County

Source GROUND WATER

Use: DOMESTIC 01/01 to 12/31 0.06 CFS
Total Diversion: 0.06 CFS

Date Filed: 6/3/2009

Place Of Use: DOMESTIC

T51N R03W S3 NENW NESW

Domestic use is for 3 homes.

95-10640

MC CAULEY EMERALD OWNERS ASSN INC

PO BOX 3333

HAYDEN, ID 83835

Point of Diversion NWNE S3 T51N R03W KOOTENAI County

Source GROUND WATER

Use: DOMESTIC 01/01 to 12/31 0.06 CFS
Total Diversion: 0.06 CFS

Date Filed: 6/3/2009

Place Of Use: DOMESTIC

T51N R03W S3 NENW

Domestic use is for 3 homes.

95-10643

MC CAULEY EMERALD OWNERS ASSN INC

PO BOX 3333

HAYDEN, ID 83835

Point of Diversion NWNE S3 T51N R03W KOOTENAI County

Source GROUND WATER

Use: DOMESTIC 01/01 to 12/31 0.13 CFS
Total Diversion: 0.13 CFS

Date Filed: 6/3/2009

Place Of Use: DOMESTIC

T51N R03W S3 NENW NESW

Domestic use is for 8 homes.

95-10750

SHAWN MONTEE

PO BOX 1329

POST FALLS, ID 83877

Point of Diversion NESE S6 T50N R03W KOOTENAI County

Source NETTLETON GULCH CREEK Tributary to SPOKANE RIVER

Use: STOCKWATER STORAGE 01/01 to 12/31 4 AF
Use: STOCKWATER FROM STORAGE 01/01 to 12/31 0.1 AF
Total Diversion: 4 AF

Date Filed: 5/7/2009

Place Of Use: STOCKWATER FROM STORAGE

T50N R03W S6 SWSE

Stockwater use is for 4 head of mixed stock

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene, ID 83815 together with a protest fee of \$25.00 for each application on or before 8/3/2009.

The protestant must also send a copy of the protest to the applicant.

Legal 7055

July 16, 23, 2009.

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, July 23, 2009 2:47 PM
To: Legal Notices-CdA Press; Legal Notices-CdAPress - Kattie Hoy
Subject: FW: CORRECTION of my earlier Notice of Correction ;-)

Attachments: CoverLetter 07-23-09 CDA e-mail 95-10603 DAY Notice of Correction.doc; LegalNotice of Correction 07-23-09 CDA e-mail 95-10603 Day.doc

Kattie - we are working with a brand new update of our advertising program and it has some glitches in it.

Please use the legal Notice of Correction in THIS e-mail for the one I submitted to you earlier today. After James Day's name it should have also had "...&/or ROSE E DAY..."

So sorry about that. I sure don't like working with brand new programs! We often find the glitches after the fact. ;-)

Don't count the days, let the days count.

Dianne

From: Ball, Dianne
Sent: Thursday, July 23, 2009 11:57 AM
To: Legal Notices-CdA Press; Legal Notices-CdAPress - Kattie Hoy
Subject: A short legal notice for publication 8/6 and 8/13, 2009 - Notice of Correction

Good day to you, Kattie,

Attached is our letter requesting publication of a legal Notice of Correction on August 6 and 13, 2009. The legal notice is also attached.

Please send proof/preview copy before publication, and bill to our office before 8/24/09, if possible.



CoverLetter
7-23-09 CDA e-mai.



LegalNotice of
Correction 07-2...

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819