

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09228

Priority: April 13, 2005

Maximum Diversion Rate: 0.04 CFS

This is to certify, that ROBERT MESSNER And/Or JANIS MESSNER
2321 E BRUNNER RD
ATHOL ID 83801

have applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER L4 (SW¼SW¼) Sec. 30, Twp 53N, Rge 03W, B.M., KOOTENAI County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
53N 03W 30													X				

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2006**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Domestic use is for 1 home.
5. This right does not grant any right-of-way or easement across the land of another.
6. This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of any management plan approved by the director for the RPGWMA. If the director determines that the ground water supply in the RPGWMA is insufficient to meet the demands of prior water rights within the RPGWMA, the director may order the diversion and use of water under this right to be reduced or curtailed until the director determines that there is sufficient ground water available for this right.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of June, 2005.


FOR KARL J DREHER, Director

RECEIVED

MAY 31 2005

Department of Water Resources

71920

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 96-9228

RECEIVED

APR 13 2005

IDWR/North

1. Name of Applicant Robert &/or Janis Messner Phone 208 638 9436

Mailing address 2321 East Brunner Rd. Arrol ID 83801

2. Source of water supply Groundwater which is a tributary of _____

3. Location of point of diversion is Township 53N Range 3W Sec. 30, in the _____ 1/4,
SW 1/4, SW 1/4, Govt. Lot 4, B.M., Kootenai County;

additional points of diversion if any:

4. Water will be used for the following purposes:

Amount .04 for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .04 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works: Well and Pump

a. Describe type and size of devices used to divert water from the source _____

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. 1

e. Other; describe fully. _____

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
53N	3W	30												D					

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? Terry Morgan
- b. Who owns the land to be irrigated or place of use? Appl.
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: _____

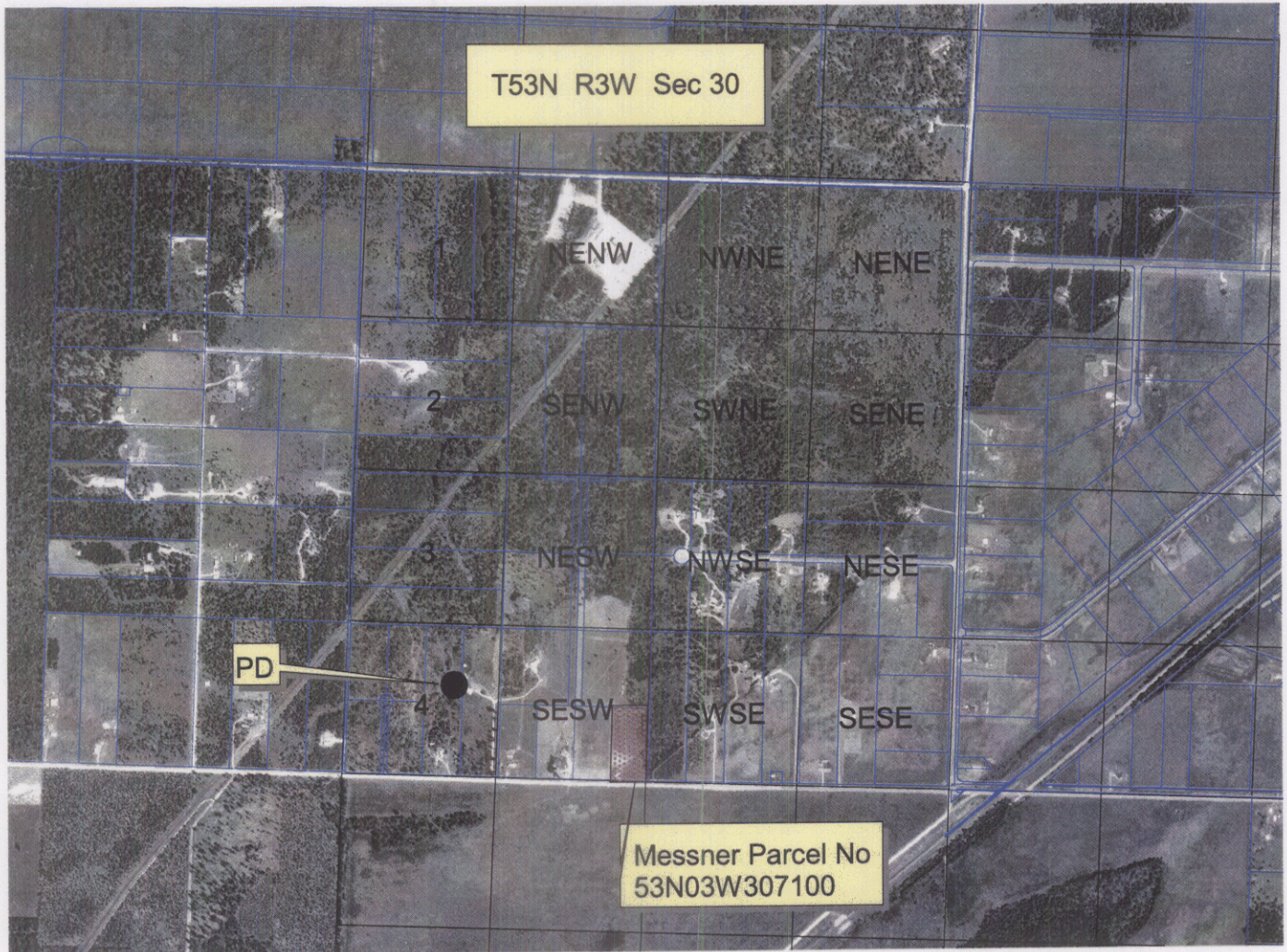
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.


Signature of Applicant (and title, if applicable)

Received by  Date 4/13/05 Time 11:26a Preliminary check by _____
 Fee \$ 100.00 Receipted by  # N016834 Date 4/13/05
 Publication prepared by  Date 4/28/05 Published in CDA Press 5/5 & 12/05
 Publication approved  Date 5/13/05

Messner



Unknown Units: View1



7.5 Minute Quad BoundariesQuad75.shp
Kootenai.shp
T53n03w.shp

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 13, 2005

ROBERT MESSNER
JANIS MESSNER
2321 E BRUNNER RD
ATHOL ID 83801

RE: Permit No. 96-9228

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.

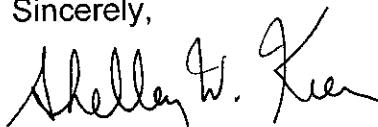
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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.

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 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

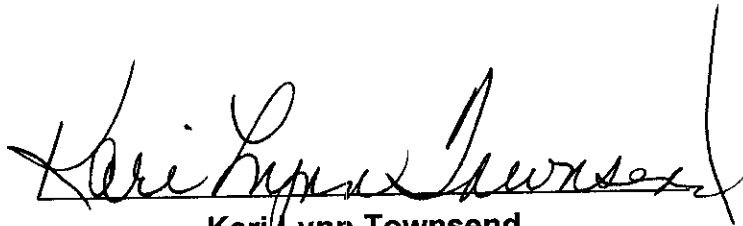
CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2005 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.

96-9228

**JANIS MESSNER
ROBERT MESSNER
2321 E BRUNNER RD
ATHOL ID 83801**



**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(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. 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.

Comment Report

96-9228

1. kwalker 6/9/2005 POD

Comment: Updated shape

2. kwalker 6/9/2005 POU

Comment: Updated Shape

3. dball 4/27/2005 Legal Notice Remarks

Comment: Domestic use is for one home

4. kwalker 6/9/2005 Permit Review

Comment: Application falls within Rathdrum Prairie GWMA. Have conditioned to reflect that. Use is for single family domestic. Recommend approval.

96-9228

-  PLSS Section LinesGcdb_sections.shp
-  GCDB53N03W GCDB
-  Dompod.shp
-  96-9228.shp



RECEIVED

MAY 13 2005

IDWR/North

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Kattie Hoy 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

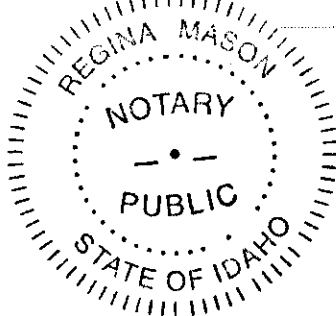
of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 5 day of May 2005, and ending on the 12 day of May 2005, and such publication was made as often during said period as said Daily newspaper was regularly issued.

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 Kattie Hoy. On this 12 day of May in the year of 2005, before me, a Notary Public, personally appeared Kattie Hoy 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 6/18/09



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

95-9268

JAMES DUDDLESTEN
KAREN DUDDLESTEN
1912 GLENVIEW DR
LAS VEGAS NV 89134
Point(s) of Diversion - (2) SWSW S1 T49N R04W
KOOTENAI County
Source SPRINGS Tributary To SINKS
Use: IRRIGATION 03/01 To 11/30 0.03 CFS
Total Diversion: 0.03 CFS
Date Filed: 03/07/2005
Place Of Use: IRRIGATION T49N R04W S1 SWSW
Number of Acres 0.5

95-9269

STEVE TURNEY
1943 GOTHAM BAY RD
HARRISON ID 83833
Point(s) of Diversion - NWSE S18 T49N R03W
KOOTENAI County
Source GROUND WATER
Use: IRRIGATION 03/15 To 11/15 0.1 CFS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.16 CFS
Date Filed: 04/26/2005
Place Of Use: DOMESTIC T49N R03W S18 NWSE
Place Of Use: IRRIGATION and STOCKWATER same as DOMESTIC
Number of Acres 5
Remark: Domestic use is for 2 homes.
Stockwater use is for 2 head of range cattle.

96-9228

ROBERT MESSNER
JANIS MESSNER
2321 E BRUNNER RD
ATHOL ID 83801
Point(s) of Diversion L4 (SWSW) S30 T53N R03W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 04/13/2005
Place Of Use: DOMESTIC T53N R03W S30 SESW
Remark: Domestic use is for 1 home
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 Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur d'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 05/23/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published on May 5 and 12, 2005
Legal 7143
May 5, 12, 2005



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 28, 2005

ROBERT MESSNER
JANIS MESSNER
2321 E BRUNNER RD
ATHOL ID 83801

RE: Application for Permit No 96-9228

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Coeur d'Alene Press on May 5 and 12, 2005. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Robert G. Haynes". The signature is written in a cursive, flowing style.

Robert G. Haynes, P.E.
Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 28, 2005

KATTIE HOY &/OR SANDY KIBLER
LEGAL NOTICE DEPARTMENT
COEUR D ALENE PRESS
201 N 2ND
COEUR D ALENE ID 83814

PLEASE FAX A PROOF COPY PRIOR TO PUBLICATION

Thank you. *Dianne*

RE: Application for Permit No. 95-9268, 95-9269 and 96-9228

Dear Kattie &/or Sandy:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, May 5 and 12, 2005, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 05/23/2005. Your cooperation is GREATLY appreciated, as always.

Thank you, it is always a pleasure to work with you.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, April 28, 2005 12:07 PM
To: Legal Notices-CdA Press (E-mail); Legal Notices-CdA Press-Sandy Kibler- (E-mail)
Subject: Legal notice for publication on May 5 and 12, 2005 - 3 Water Rights

Good afternoon Kattie & Sandy,

Attached is our cover letter requesting publication on May 5 and 12, 2005 of a legal notice, also attached.

PLEASE FAX A PROOF COPY PRIOR TO PUBLICATION.

If you have ANY questions, please call me at 769-1450.

Thanks very much, and it's always a pleasure to work with you.

Every day is a gift, treat it kindly and share it with joy....

✿ Dianne

Dianne Ball, Administrative Assistant
Idaho Department of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone 208-769-1450 FAX 208-769-1454

4/28/2005

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95-9268

JAMES DUDDLESTEN
KAREN DUDDLESTEN
1912 GLENVIEW DR
LAS VEGAS NV 89134

Point(s) of Diversion - (2) SWSW S1 T49N R04W KOOTENAI County

Source SPRINGS Tributary To SINKS

Use: IRRIGATION 03/01 To 11/30 0.03 CFS
Total Diversion: 0.03 CFS

Date Filed: 03/07/2005

Place Of Use: IRRIGATION T49N R04W S1 SWSW
Number of Acres 0.5

95-9269

STEVE TURNEY
1943 GOTHAM BAY RD
HARRISON ID 83833

Point(s) of Diversion - NWSE S18 T49N R03W KOOTENAI County

Source GROUND WATER

Use: IRRIGATION 03/15 To 11/15 0.1 CFS
Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.16 CFS

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Number of Acres 5

Remark: Domestic use is for 2 homes.

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96-9228

ROBERT MESSNER
JANIS MESSNER
2321 E BRUNNER RD
ATHOL ID 83801

Point(s) of Diversion L4 (SWSW) S30 T53N R03W KOOTENAI County

Source GROUND WATER

Use: DOMESTIC 01/01 To 12/31 0.04 CFS
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Remark: Domestic use is for 1 home

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KARL J DREHER, Director Published on May 5 and 12, 2005