

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 83-11964

Priority: March 04, 2005

Maximum Diversion Rate: 0.02 CFS

This is to certify, that JAMES DE MAIN Or BETTY DE MAIN
PO BOX 1923
OROFINO ID 83544

have applied for a permit to appropriate water from:

Source: SPRING

Tributary: UNNAMED STREAM

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

BENEFICIAL USE

STOCKWATER

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.02 CFS

LOCATION OF POINT OF DIVERSION:

SPRING NW¼NW¼SE¼ Sec. 29, Twp 37N, Rge 02E, B.M., CLEARWATER County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
37N 02E 29														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. Stockwater use is for 10 range cattle.
4. The use authorized under this right shall not exceed 13,000 gallons per day.

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

#1000 Bob

FORM 202
2/99
RECEIVED
JUN 07 2005
Department of Water Resources

71919

Ident. No. 83-11964

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

RECEIVED
MAR 04 2005
IDWR/North (3680)

1. Name of Applicant James or Betty DeMain Phone 208-476-3680
Mailing address PO Box 1923 Orofino ID 83544
2. Source of water supply Spring which is a tributary of unnamed stream to sinks
3. Location of point of diversion is Township 37N Range 2E Sec. 29, in the NW 1/4,
NW 1/4, SE 1/4, Govt. Lot _____, B.M., Clearwater County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:
Amount .02 for Stockwater 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) .02 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source Pipe in Spring to
trough
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. 10 HEAD
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. _____

3. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
37N	2E	29														S			

Total number of acres to be irrigated _____

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

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

12. Remarks: Spring was actually developed in 1980

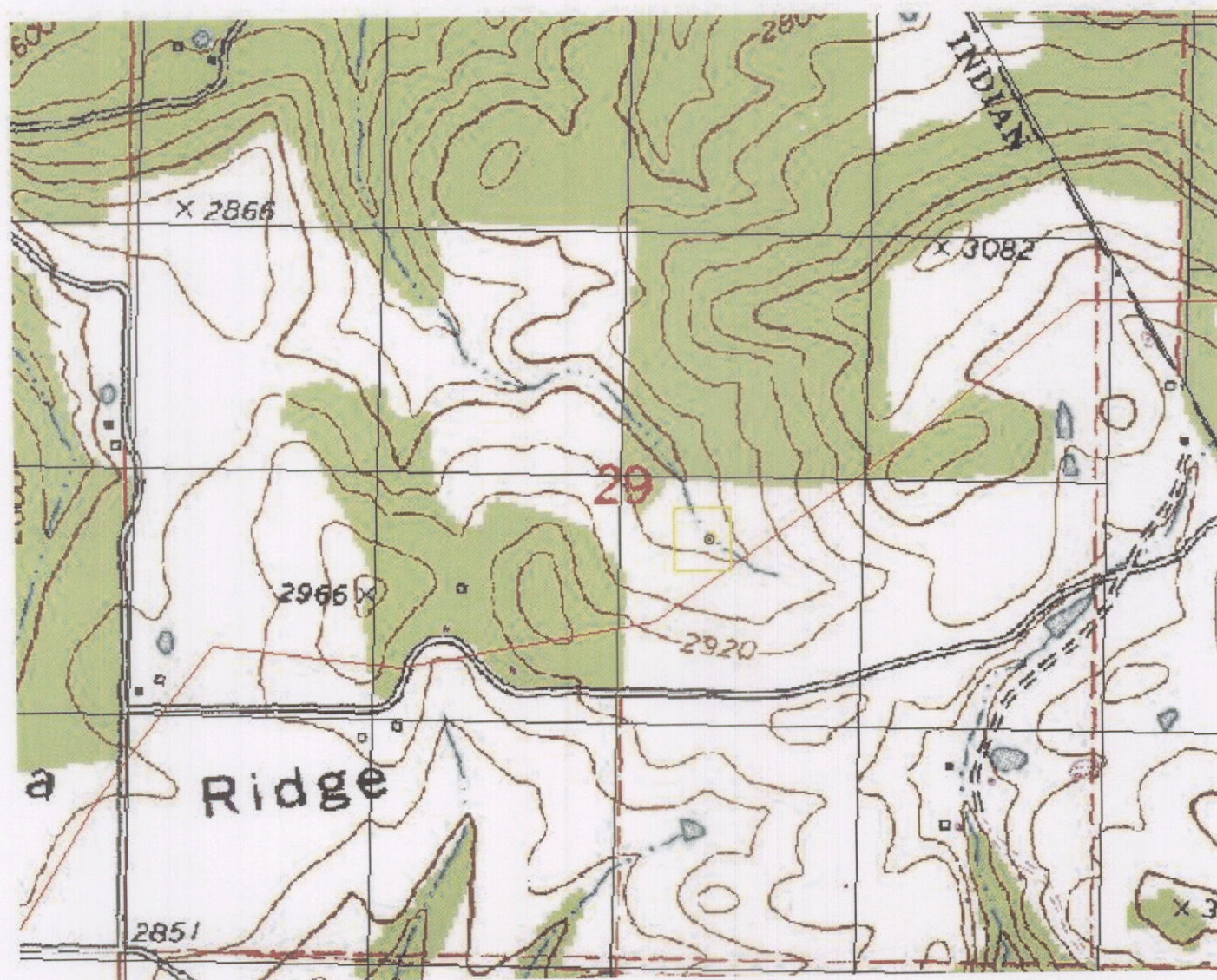
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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.

Betty W. Main
Signature of Applicant (and title, if applicable)

Received by [Signature] Date 3/4/05 Time 1:40p Preliminary check by _____
 Fee \$ 100.00 Received by [Signature] # N016767 Date 3/4/05
 Publication prepared by [Signature] Date 7/27/05 Published in Coeur d'Alene Tribune 5/5+12/05
 Publication approved [Signature] Date 5/31/05

DeMain Application



T37N R02E
Sections 29



Place of Us



Point of Div



**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 9, 2005

JAMES DE MAIN
BETTY DE MAIN
PO BOX 1923
OROFINO ID 83544

RE: Permit No. 83-11964

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.

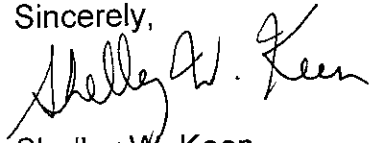
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

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 208-287-4947.

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 the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

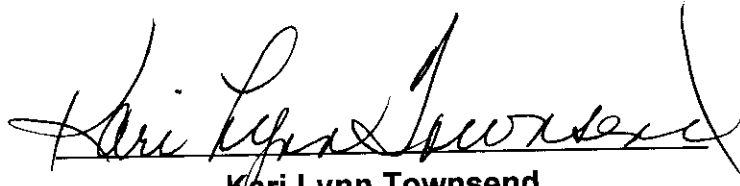
CERTIFICATE OF SERVICE

I hereby certify that on June 9, 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.

83-11964

**BETTY DE MAIN
JAMES DE MAIN
PO BOX 1923
OROFINO ID 83544**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is written over a horizontal line.

**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

83-11964

1. kwalker 6/9/2005 POD

Comment: Updated shape

2. kwalker 6/9/2005 POD

Comment: Updated PLS

3. kwalker 6/9/2005 POU

Comment: Updated Shape

4. kwalker 6/9/2005 POU

Comment: Updated PLS

5. dball 4/27/2005 Legal Notice Remarks

Comment: Stockwater use is for 10 head of range cattle.

6. kwalker 6/9/2005 Permit Review

Comment: Application falls within the Salmon Clearwater moratorium area. Use is diminimus so can process with 13,000 gpd limit. Recommend approval.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Clearwater)

MARCIE STANTON

being first duly sworn, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of the THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the

Dept. of Water Resource

DE MAIN WATER APPLICATION

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a full period of two consecutive weeks, commencing on the 5th day of May 2005 and ending on the 12th day of May 2005.

STATE OF IDAHO)
)
COUNTY OF CLEARWATER)

On this 12th day of May in the year of 2005, before me, a Notary Public, personally appeared

Marcie Stanton

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Pamela A. Jones

Notary Public for Idaho
Resident at Orofino, Idaho
My commission expires: 11-20-07

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

83-11964

JAMES DE MAIN
BETTY DE MAIN
PO BOX 1923
OROFINO ID 83544

Point(s) of Diversion NWNWSE S29 T37N R02E CLEARWATER County

Source SPRING Tributary To UNNAMED STREAM

Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Total Diversion: 0.02 CFS

Date Filed: 03/04/2005

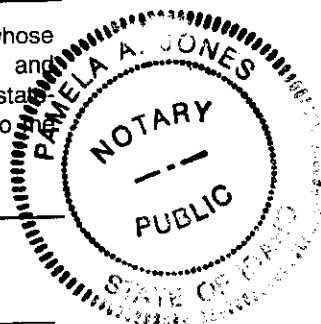
Place Of Use: STOCKWATER T37N R02E S29 NWSE
Remark: Stockwater use is for 10 head of range cattle.

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

5-5, 12c



Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, May 03, 2005 7:45 AM
To: Legal Notices-Clearwater Tribune (E-mail)
Subject: Proof prior to publication

Good morning,

I am looking for a proof prior to publication, today if possible, because I have to be out the rest of the week with doctor appointments and travel.

We have a legal notice that was e-mailed to you last week and it is scheduled to publish May 5 and 12. If possible I would really like to proof it for layout and content prior to publication. It involves a water right for DeMain - number 83-11964.

If you did not receive it - please reply immediately and I will re-send.

Thank you so very much for your help.

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

5/3/2005



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 27, 2005

STATE OF IDAHO
DEPT OF FISH & GAME
1540 WARNER AVE
LEWISTON, ID 83501

FAXED 4/27/05
4 pages total

Application to Permit No. 83-11964

STATE OF IDAHO :

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please respond by or before May 20, 2005. No response will be considered as no comments, objections or conditions.

You may respond by FAX to 208-769-1454 or by e-mail to Dianne.Ball@idwr.idaho.gov

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Dianne', is written in dark ink.

Dianne Ball
Administrative Assistant

Enclosure(s)



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

April 27, 2005

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JAMES DE MAIN
BETTY DE MAIN
PO BOX 1923
OROFINO ID 83544

RE: Application for Permit No 83-11964

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 Clearwater Tribune 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,

Robert G. Haynes, P.E.
Regional Manager

Enclosure(s) - Receipt No. N016767



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 27, 2005

PLEASE FAX PROOF COPY PRIOR TO PUBLICATION
Thanks , Dianne

MARCIE STANTON
And **ANDREA**
LEGAL NOTICE DEPARTMENT
CLEARWATER TRIBUNE
PO BOX 71
OROFINO ID 83544

RE: Application for Permit No. 83-11964

Dear Marcie and/or Andrea:

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, as always, GREATLY appreciated.

Thank you very much.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, April 27, 2005 1:36 PM
To: Legal Notices-Clearwater Tribune (E-mail)
Subject: Legal Notice for publication on 5/5 and 12/05 - 83-11964

Good afternoon Marcie & Andrea,

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

PLEASE FAX A PROOF COPY TO ME PRIOR TO PUBLICATION at 208-769-1454

If you have ANY questions, please call me at 208-769-1450.

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

4/27/2005

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

83-11964

JAMES DE MAIN
BETTY DE MAIN
PO BOX 1923
OROFINO ID 83544

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Source SPRING Tributary To UNNAMED STREAM

Use: STOCKWATER 01/01 To 12/31 0.02 CFS
Total Diversion: 0.02 CFS

Date Filed: 03/04/2005

Place Of Use: STOCKWATER T37N R02E S29 NWSE

Remark: Stockwater use is for 10 head of range cattle.

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