



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 9, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

GEORGE B. & PAMELLA FORESTIER
6548 RED ROCK RD
MARSING ID 83639

RECEIVED

FEB 19 2004

RE: Application for Transfer No. 70989, Water Right No. 72-7247

Dear Applicant(s):

Enclosed is a copy of a protest filed against the above referenced application. The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

Please note that your application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-222, Idaho Code).

1. Will other water rights be injured by the proposed transfer?
2. Will the proposed change constitute an enlargement in the use of the original Right(s)?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed change be contrary to the conservation of water resources within the State of Idaho?

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office or if you have any questions please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

Enclosure(s)

SCANNED
FEB 18 2004

Fax

February 18, 2004

**TO: Allen Merritt, IDWR-Southern Region
Eric Klepfer, Klepfer Mining Service**

FROM: Fred Price, BLM-ISO

RE: Withdrawal of Protest to Transfer #70989

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Department of Water Resources
Southern Region

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709

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FEB 18 2004



In Reply Refer To:
7250 (ID-933b)

Department of Water Resources
Southern Region

February 18, 2004

Mr. Allen Merritt, Office Manager
Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301

Re: Withdrawal of Protest to Transfer Application #70989

Dear Mr. Merritt:

On January 30, 2004, the United States of America, acting through the Department of Interior, Bureau of Land Management (hereinafter "U.S.D.I., BLM") filed a protest contesting the transfer application of George B. Forestier. Transfer #70989 is speculative as Mr. Forestier is not authorized to conduct the water use on public land described in the transfer.

On February 12, 2004, I received a copy of an assignment agreement between Forestier and L&W Stone Corp. for water right number 72-07247. I am informed from your office that you received this agreement and it is my understanding this notarized assignment agreement also assigns Transfer Application #70989 to L&W Stone Corp. L&W Stone Corp. is authorized to use public land for mining purposes and circumstances are such that the U.S.D.I., BLM would not oppose this transfer if it were promulgated by L&W Stone Corp.

By this letter I state that I have the authority to act on behalf of the U.S.D.I., BLM, with myself as its agent, to the matters discussed herein. The U.S.D.I., BLM hereby withdraws its protest of Transfer Application #70989. Withdrawal of said protest does not represent recognition by U.S.D.I., BLM of the claim elements nor their validity.

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FEB 18 2004

CERTIFICATE OF SERVICE

I certify that on February 18, 2004, I served a true and correct copy of the **Withdrawal of Protest to Transfer Application #70989**, upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to: Allen Merritt, Office Manager
Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

Copies to: George B. Forestier
PO Box 924
Challis, Idaho 83226

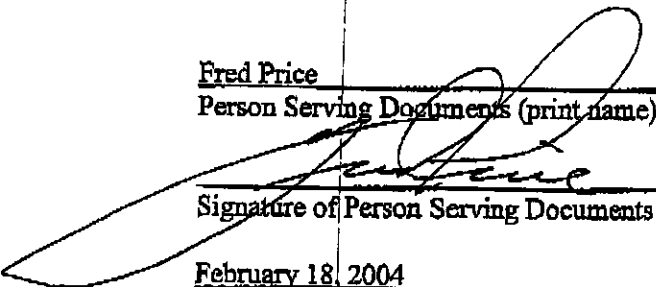
Gary Bushnell, Registered Agent
L & W Stone Corporation
Highway 75, Milepost 227
Challis, Idaho 83226

Mr. Eric Klepfer
Klepfer Mining Service LLC
13058 Sherwood Court
Hayden Lake, Idaho 83835

Field Office Manager, Challis Field Office
Alan Bittner, Natural Resource Specialist, Salmon Field Office
U.S.D.I., Bureau of Land Management
Salmon Field Office
50 Highway 93 South
Salmon, Idaho 83467

Fred Price

Person Serving Documents (print name)


Signature of Person Serving Documents

February 18, 2004

Date

RECORDED
FEB 18 2004

KMS

Klepfer Mining Service LLC

MEMORANDUM**DATE:** February 9, 2004**TO:** Alan Merritt**FROM:** E. Klepfer **CC:****SUBJECT:** Assignment – Transfer No. 70989 – Water Rights 72-7247

Attached is a signed agreement assigning the application to L&W Stone Corporation. I have discussed the matter with Fred Price, Water Rights Specialist with the BLM. He agrees that this will work to resolve his objection.

I asked him to call you specifically so that the matter can be finalized and his protest withdrawn.

It is our desire to expedite this part of the process. I hope that this assignment can be incorporated with stipulations into our current permit application, as it is without additional filings, to address the BLM's protest.

Please advise me at your earliest convenience the status of the BLM's protest and the next step in the review and approval process.

If you have any questions, please contact me by phone so that we can expedite any information required by the State. My cell phone number is 208-771-1472.

Thanks You!

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Department of Water Resources
Southern Region

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FEB 18 2004

KMS

Klepfer Mining Service LLC

MEMORANDUM

RECEIVED

FEB 09 2004

Department of Water Resources
Southern Region

DATE: February 9, 2004

TO: Fred Price – BLM Water Rights Specialists

FROM: E. Klepfer *EK*

CC:

SUBJECT: Application Assignment Agreement

Here is a signed copy of the agreement for the assignment of the water rights to L&W Stone Corporation contingent upon the transfer of real property.

If you have any questions, please let me know. If I don't hear from you, I will assume that you concur and will withdrawal the protest from the State.

I am faxing this information to Alan Merritt at IDWR and will start that process based on the status of the BLM's protest.

Thanks!

SCANNED
FEB 18 2004

FROM : Forestier Constructi

PHONE NO. : 208 8795024

Feb. 09 2004 02:53PM P1

Feb 09 04 01:14p

Eric Klepfer

208-772-3480

p. 2

KMS**Klepfer Mining Service LLC**

Project Management, Engineering, and Environmental Services

February 9, 2004

Mr. George Forestier
6548 Red Rock Rd.
Marsing, ID 83638-8018

Re: Assignment to L&W Stone Corporation (W.R. 72-7247 - Transfer #70989)

Dear Mr. Forestier:

This letter is written on behalf of L&W Stone Corporation. I have discussed with the BLM their protest of the application filed by L&W Stone Corporation. They are concerned that the current application provides for transfer of the water right directly into your name prior to the land purchase. It was our expectation that the water rights would remain with the land and would be automatically changed with the change in ownership.

While this is the case, it is also the key element of the BLM's protest. The BLM and the State have indicated a willingness to work with L&W Stone Corporation to resolve this matter and remove the protest allowing the water application to be processed. In order to accommodate this, the State has suggested that the water right application be assigned to L&W Stone Corporation contingent upon the transfer of real property.

This letter is intended to provide that assignment approval and as such provide a resolution to the BLM's protest. The BLM indicated they would immediately remove the protest on the water right application if such an agreement was reached between the parties.

Your signature is necessary to authorize the assignment to L&W Stone Corporation and this letter will become part of the application. The water application would not be finalized without the transfer of real property between you and L&W Stone Corporation.

Attached is an assignment agreement that I have put together that will be provided with this letter to the State and the BLM. Please review the documents and sign the attachment and the letter as noted below. I have included your wife on the signature lines as well.

If you have any questions, please let me know.

Sincerely,

Eric Klepfer

Acknowledge/Approval

George Forestier:

Famella Forestier:

13058 Sherwood Ct., Hayden Lake, ID 83835
(208)-772-6993 (208)-772-3480 (fax)
email: eklepfer@adelphia.net

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FEB 09 2004

Department of Water Resources
Southern Region

FROM : Forestier Constructio

PHONE NO. : 208 8795024

Feb. 09 2004 02:53PM P2

Feb 09 04 01:14p

Eric Klepfer

208-772-3400

N.J.

**Assignment of
Water Right 72-7247
Transfer Application No. 70989**

This agreement provides for the assignment of the water right application/change for water right 72-7247 (Transfer No. 70989) currently in the Idaho Department of Water Resource's review process. L&W Stone Corporation initiated a change of use and place of use on this water right to support the Three Rivers Stone Quarry located near the Forestier's Property.

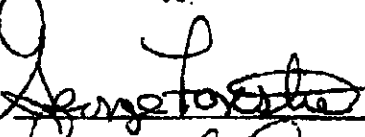
George and Parnella Forestier agree to assign the current application to L&W Stone Corporation contingent upon the transfer of real property from George and Parnella Forestier to L&W Stone Corporation, as outlined in the Purchase and Sale Agreement signed by both parties. The sales agreement covers the property located in Custer County for which water right 72-7247 is attached.

If for any reason, the permit or transfer of real property does not occur, the water right will revert back to the original condition prior to L&W Stone Corporation implementing the changes to the water right application.

By assigning this application, it allows the State to continue to process the application and make the name change retroactive to the conditions of this agreement. The full State approval will be contingent upon the transfer of the real property associated with this water right into L&W Stone Corporation's name.

This acknowledgement that the land sale and water rights transfer are contractually linked and will allow BLM to withdraw their protest, by resolving the interim water right ownership issue, for the water application filed and allow the State process to continue.

George Forestier:



Date:

2-9-04

Parnella Forestier:



Date:

2-9-04

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Southern Region

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