

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

RECEIVED  
FEB 18 2004  
Department of Water Resources  
Southern Region



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Idaho State Office  
1387 South Vinnell Way  
Boise, Idaho 83709



RECEIVED

FEB 18 2004

Department of Water Resources  
Southern Region

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

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.

If you have questions regarding any statements above, please contact me at (208) 373-3831 or at the address provided above.

Sincerely,

Sincerely,



Fredric W. Price  
Water Rights Specialist

**Fredric W. Price**  
**Water Rights Specialist**

**Enclosures:**

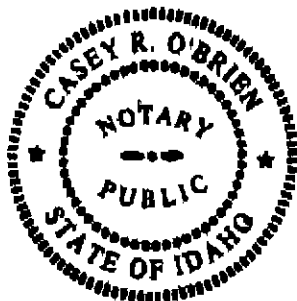
- Enclosures:
- (1) Copy of Assignment of Water Right #72-07247 and Transfer Application #70989 from George B. Forestier to L & W Stone Corporation
- (2) Copy of Delegation of Authority

### INDIVIDUAL ACKNOWLEDGMENT

STATE OF IDAHO )  
 ) ss:  
COUNTY OF ADA )

On this the 18<sup>th</sup> day of February 2004, Fredric W. Price, personally came before me, Casey R. O'Brien, a notary public, in and for the above said County and State, known to me to be the identical person described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Seal

Casey R. O'Brien  
Notary public in and for the State of: Idaho  
Date: February 18, 2004  
Residing at: Nampa, Idaho  
My commission expires: October 31, 2009

**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

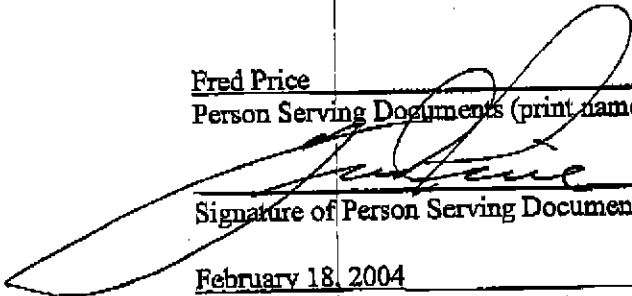
Gary Bushnell, Registered Agent  
L & W Stone Corporation  
Highway 75, Milepost 227  
Challis, Idaho 83226

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

FROM : Forestier Construction

PHONE NO. : 208 8795024

Feb. 12 2004 10:30AM P2

Feb 11 04 01:45p

Eric Klepfer

208-2-3480

p.1

**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:

Pamella Forestier:

**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 Pamella Forestier agree to assign the current application to L&W Stone Corporation contingent upon the transfer of real property from George and Pamella 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.

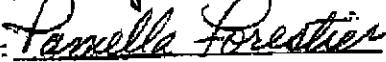
George Forestier:



Date:

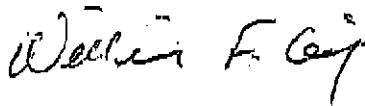
2-12-04

Pamella Forestier:



Date:

2/12/04



WILLIAM F. GIGRAY, IV  
Notary Public  
State of Idaho

My Commission Expires On  
June 16, 2009

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENTIdaho State Office  
1387 South Vinnell Way  
Boise, Idaho 83709-1657In Reply Refer To:  
7250/1230 (933) P

July 27, 2001

EMS

Instruction Memorandum No. ID-2001-063

Expires: 09/30/2002

To: ICT

From: State Director

Subject: Water Rights Delegation of Authority

Idaho State Office 1203 - Delegation of Authority Manual Supplement is amended to add delegated authority to both the Deputy State Director for Resource Services and the Branch Chief for Lands and Minerals to negotiate and settle Snake River Basin Adjudication (SRBA) water rights issues. The SRBA water rights team leader (Gary Madenford) and senior water rights specialist (Fred Price) will continue to have authority to represent the BLM regarding all water rights issues.

This delegation is effective immediately. The Idaho Delegation of Authority Supplement will be revised to reflect these changes.

Contact Jimmie Buxton if you have comments or questions regarding this issue.

Signed by:           Authenticated by:  
Martha G. Hahn       Susanna M. Henry  
                    Staff Assistant (ID-933)

cc:

ISO Water Rights Team  
Larry Brown, DOJ Attorney  
Mel Matlock (950)  
Bill Ferry, Field Solicitor - Boise