

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested:

Application for Transfer #70989 filed by George B. Forestier involving water right claim number 72-07247.

2. Name of protestant:

**United States of America, acting through Department of the Interior
Bureau of Land Management
Idaho State Office**

3. Protestant Representative for service:

Fredric W. Price, Water Rights Specialist

4. Service mailing address:

**1387 South Vinnell Way
Boise, Idaho 83709**

5. Service telephone #:

(208) 373-3831

6. Basis of protest (including statement of facts and law upon which the protest is based):

The application for transfer is speculative as it seeks to establish places of use (see below) on federal public land for purposes of use (i.e. mining and mining from storage) that Forestier is not authorized to conduct:

**Lot 1 (NENE), Lot 3 (SWNE), Lot 4 (SENE), NESE, NWSE, SWSE, SESE, S22;
NWNW, SWNW, SENW, NESW, NWSW, SWSW, SESW, S23; NENW, NWNW,
S26; and NENE, S27; all within T.11N., R.18E.**

It is my understanding that one cannot acquire a right by aid of trespass. Bassett v. Swenson, 51 Idaho 256, 5 P.2d 722 (1931). The U.S. reserves the right to assert additional defenses and arguments against the application for transfer at hearing.

I am informed that there is a pending realty transaction between L&W Stone Corporation and George Forestier which would result in L&W Stone acquiring title to 72-07247. L&W Stone is authorized by the United States to conduct the water using activity represented in Transfer #70989. BLM would not oppose this transfer if the portion describing a water use on federal public land were held in the name of L&W Stone.

*Receipt #C072492
1/30/04
PMG*

RECEIVED
JAN 30 2004
Department of Water Resources

RECEIVED
FEB 03 2004
Department of Water Resources
Southern Region

7. What would resolve your protest?:

Amend the application for transfer to remove the places of use describing federal public land; or amend the application for transfer to define that L&W Stone holds title to the water proposed for use on federal public land.

IDWR could facilitate the realty action between Forestier and L&W Stone, if IDWR could proceed far enough with the transfer process to determine if the transfer would be approved (notwithstanding active protests).

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

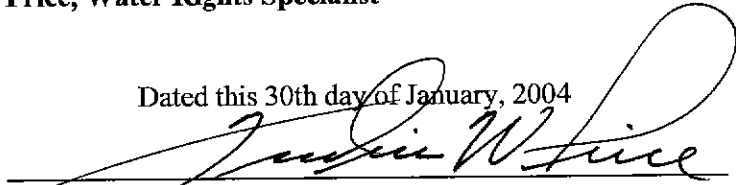
Protestant:

**United States of America, acting through Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709**

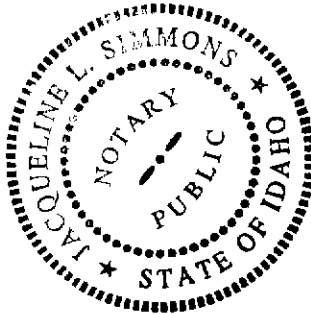
Protestant's Representative:

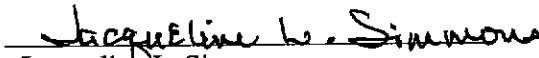
Fredric W. Price, Water Rights Specialist

Dated this 30th day of January, 2004


Fredric W. Price

On this 30th day of January 2004, before me Jacqueline L. Simmons, a notary public, personally appeared Fredric W. Price, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.




Jacqueline L. Simmons
Notary Public in and for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 04-07-2005

NOTE: A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

CERTIFICATE OF SERVICE

I certify that on January 30, 2004, I served a true and correct copy of the foregoing **Protest of Application for Transfer #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:

**Idaho Department of Water Resources
State Office
1301 N. Orchard St.
Boise, ID 83706-2237**

-hand delivered 01-30-04

Copies to :

**Allen Merritt, Office Manager
Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore St., STE 200
Twin Falls, ID 83301**

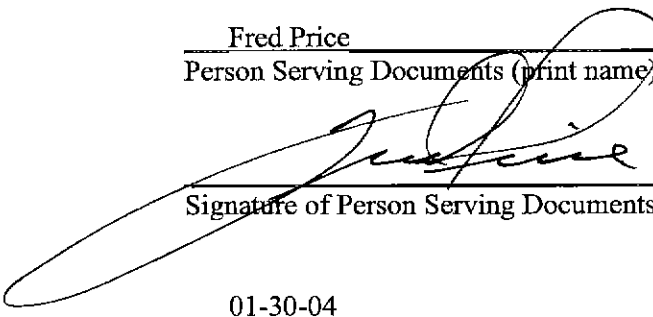
**George B. Forestier
6548 Red Rock Rd.
Marsing, ID 83639**

**Gary Bushnell, Registered Agent
L&W Stone Corporation
HWY 75 Milepost 227
Challis, ID 83226**

**Gail O'Neill, Assistant Field Office Manager, Challis Field Office
Alan Bittner, Natural Resource Specialist
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

01-30-04

Date

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

In 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 adelegated authority to both the Deputy State Director for Resource Services and the Branch Chieffor Lands and Minerals to negotiate and settle Snake River Basin Adjudication (SRBA) waterrights issues. The SRBA water rights team leader (Gary Madenford) and senior water rightsspecialist (Fred Price) will continue to have authority to represent the BLM regarding all waterrights issues.

This delegation is effective immediately. The Idaho Delegation of Authority Supplement will berevised 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

SUSANNA M HENRY
1387 S VINNELL WAY
BOISE ID 83709

Not Valid After 60 Days
For Official Use Only
US Government Tax Exempt

275

DATE Jan. 30, 2004 68-1/510

U. S. DEPARTMENT OF THE INTERIOR - BUREAU OF LAND MANAGEMENT

PAY TO THE
ORDER OF

IDWR

\$ 25.00

Twenty five & 00/100

DOLLARS  Security features
included.
Details on back.

NOT VALID FOR CASH

Not Valid For More Than \$2,500.00

Bank of America

Bank of America, N.A. (USA)
Payable through
Bank of America, N.A.
Richmond, Virginia

FOR Protest of Transfer # 70989

Susanna M. Henry NP

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