



State of Idaho

DEPARTMENT OF WATER RESOURCES

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SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 17, 2003

Eric Klepfer
Earthworks Technology
409 West Neider Street
Suite A
Coeur d' Alene, ID 83815

Dear Mr. Klepfer:

Please find enclosed a transfer application in the name of George and Pamela Forestier that you submitted to our office along with a \$100.00 filing fee (check #2621 from Earthworks Technology). The application is being returned due to several items that prevent us from processing the application.

The first item relates to the applicant's signature. The application lists George and Pamela Forestier as the applicants, but it appears that George Forestier only signed the application. If two parties are listed as applicants with the "and" name connector, both parties must sign the application.

There was no proof of ownership of the new proposed place of use included with the application. Please note that if a party other than the applicant owns the new place of use, the applicant must provide documentation that authorizes the change on behalf of the current owner of the proposed new place of use. Also note that an ownership change can be processed through the transfer process if desired, so that upon approval, the owner of the new place of use can be reflected as the owner of the water right.

The application proposes changing an irrigation water right to a "mining" water right. This results in a change of nature of use of the original water right. For applications proposing changing the nature of use of a water right, additional information is required. The current irrigation right, 72-7247, authorizes the diversion of 0.11 cfs and 12.0 acre-feet of water per year from the Salmon River. Of this amount of water, a certain percentage will be consumed by the crop, or lost to evaporation, while irrigating. The remaining percentage will essentially return to the Salmon River system through

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percolation. The amount of water consumed by a water use (consumptive use) is an element of the original water right that cannot be expanded. Detailed information and descriptions regarding the proposed new use of water needs to be provided. This information should include the amount of water that will be consumed by the new use of water. A detailed description of the new proposed use of water may shed some light on whether or not "mining" is the most accurate description of the use of the water. In addition, information relating to the past use of the current water right needs to be submitted, in particular information related to the types or crops that were irrigated over the last five years. The highest irrigation requirement for a historically irrigated crop may very well serve as the basis for the amount of water that could be allowed to be transferred, depending on the amount of water consumed by the new use.

A more detailed description of the proposed diverting works, and conveyance of water to the proposed place of use needs to be provided. The application states that the proposed location of the point of diversion will not change, but the proposed place of use is some distance up gradient from the current point of diversion. In addition, the description of the point of diversion for the current water right (page 3 of application) lists a point of diversion description that differs from the Department's records. I am not sure if the water is intended to be piped or trucked to the place of use, or if perhaps the point of diversion will actually change. For clarification, the point of diversion that will be used after the proposed transfer should be indicated on the map that was included with the application.

The proposed place of use description on the first page of the application does not match the area indicated on the map that was included with the application, in particular the land in Section 26. The "40" numbers shown in the proposed place of use section on the application do not need to be listed, or summed in the "totals" column for non irrigation uses. In addition, the Government Lot numbers were not included on the proposed place of use description. I have included a copy of a map of Township 11 North, Range 18 East that shows the Government Lot numbers for your reference and use.

The application proposes changing the period of use of the water right from the irrigation season to year round "mining" use. Because the water right is from a surface water source, the Salmon River, increasing the period of use to include the non-irrigation season may be considered an enlargement that may injure other Salmon River water rights that are used during the non-irrigation season. The application may be easier to approve, if the proposed new use could be limited to the irrigation period of use on the existing right, or if water could be diverted in the irrigation season, and possibly stored for use during the non irrigation season.

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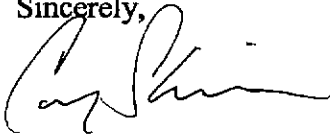
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Lepfer/ Forestier Transfer Letter
November 17, 2003

It appears that this application is for the L & W Stone Corporation site near the mouth of the East Fork of the Salmon River. An application for permit, 72-16617, has been filed for "industrial" use at this site, and clarification on the status of this particular application would be appreciated if the enclosed transfer application involves the same property.

You may want to consider reviewing the Eastern Snake River Plain Water Right Transfer Processing Procedures Memo that provides further detail regarding some of the items mentioned in this letter. The memo is available on the Department's web page (address <http://www.idwr.state.id.us/>). If you have any questions, or need any further assistance, feel free to contact me at your convenience.

Sincerely,



Corey Skinner, PE
Water Resource Engineer

Enclosures

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EARTHWORKS TECHNOLOGY, INC.
910 W. MAIN ST., SUITE 260
BOISE, IDAHO 83702
(208) 343-8727

WELLS FARGO BANK

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11/4/2003

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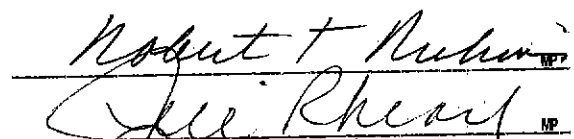
PAY TO THE ORDER OF Idaho Dept. of Water Resources

\$ **100.00

One Hundred and 00/100*****

DOLLARS

Idaho Dept. of Water Resources
1301 N. Orchard
Boise, ID 83706



MEMO

TRANSFER OF WATER RIGHTS FOR L & W STONE

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE. RED IMAGE DISAPPEARS WITH HEAT.