

October 24, 2012

RECEIVED

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Department of Water Resources
Eastern RegionIdaho Dept. of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls, ID 83402

RE: Application to Appropriate 13-7853 Consolidated Irrigation Company PROTEST

To Whom it May Concern:

PacifiCorp owns water rights in the Bear River and Bear Lake as decreed in the matter of *Utah Power & Light Company v Last Chance Canal Company, Limited, et al.*, in Equity No. 203, July 14, 1920 (Dietrich Decree), and *Utah Power & Light Company v. Richmond Irrigation Company, et al.*, February 21, 1922 (Kimball Decree), as well as other rights in the Bear River.

PacifiCorp has contracts for delivery of water from Bear Lake to irrigators in both Idaho and Utah. Any water allowed to be diverted that would otherwise naturally flow to the Bear River and thus diminish the natural flow of the Bear River would require more water to be released from Bear Lake. In the 1995 Bear Lake Settlement Agreement, PacifiCorp and the Bear River water users and Bear Lake interests agreed that no more water would be released from Bear Lake than was necessary to meet the needs of the irrigators based on the elevation of Bear Lake each year.

PacifiCorp has reviewed the application to appropriate water for a hydropower project submitted by Consolidated Irrigation Company wherein they are asking to appropriate 60 cfs year round. The application states that the diversion works already exist. The existing diversions appear to be for irrigation off of Mink Creek, Worm Creek and Cub River for irrigation. There is no information contained in the application as to the irrigation rights owned by the applicant.

While the applicant may be entitled to divert water during the irrigation season from the existing diversions, this application is asking that water be diverted year round for hydropower. Because this diversion will not return to the Bear River, it is a direct interference to PacifiCorp's rights will reduce the quantity of water under its Bear River rights.

PacifiCorp petitions Idaho Water Resources to deny this application based on this direct interference to PacifiCorp's rights.

PacifiCorp apologizes for this late protest and respectfully requests that it be allowed full intervention in this matter.

Cordially,

Claudia Conder
Water Rights Administrator for PacifiCorp

Cc: Lyle Porter
President- Consolidated Irrigation Co.
33 S. 1st E.
Preston, ID 83263

Cc: Robert L. Harris
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405

Cc: Bear River Water Users Association
c/o Carly Burton
967 Bloomsbury Cove
Murray, UT 84123

Cc: Bear Lake Watch
c/o David & Claudia Cottle
2629 Highway 89
Fish Haven, ID 83287

Cox, Sharla

From: Conder, Claudia [Claudia.Conder@PacifiCorp.com]
Sent: Wednesday, October 24, 2012 3:46 PM
To: Cefalo, James; Cox, Sharla
Subject: Application to appropriate 13-7853 Consolidated Irrigation Co. protest
Attachments: Consolidated 13-7853 protest signed 10-24-2012.pdf

James, Sharla- attached is a copy of a protest that I am mailing to you today. I recognize that the protest period ended on Oct. 22, , however, PacifiCorp respectfully requests that this protest be accepted and that PacifiCorp be allowed full intervention in this matter.

Thank you for your consideration. I will mail this today along with the filing fee of \$25.00.

*Claudia Conder
Property Agent/Water Rights Administrator
1407 W. North Temple #110
Salt Lake City, UT 84116
801-220-2252 (office)
801-511-3594 (cell)*