

September 23, 2011

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

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SEP 26 2011

Department of Water Resources
Eastern Region

RE: Application to Appropriate 13-7784 Miller Family Real Estate LLC LATE 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 recreational storage pond with water from Cottonwood Creek, Stockton Creek, and Current Creek. Since these creeks are tributary to Bear River, PacifiCorp has an interest in this application.

The Bear River basin is fully appropriated and therefore, this application must be denied. If the applicant desires to use water for an aesthetic or recreation storage pond, a transfer application should be sought and acreage dried up to mitigate for the water to be used for this purpose.

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: Miller Family Real Estate LLC
9350 South 150 East Suite 100
Salt Lake City, UT 84070

Receipt
E037003

Cc: Paul L Arrington
Barker Rosholt & Simpson LLP
113 Main Ave West Ste 303
P.O. Box 485
Twin Falls, ID 83301-0485

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