



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:

BA WTR
WR UT
Mail Stop 60189

MAILING ADDRESS:

Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:

134 Union Blvd.
Lakewood, Colorado 80228-1807

Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-6105

JUN 20 2007

RECEIVED

JUN 25 2007

Department of Water Resources
Eastern Region

RE: Notice of Protest, Application for Transfer of 13-896B, 13-901, 13-946B, 13-2289, and 13-2296 in the name of Twin Lakes Canal Company

Dear Sir or Madam:

The proposed transfers create new consumptive uses from open water evaporation in the proposed Oneida Reservoir. The proposed transfers will change return flow and seasonal runoff timing and availability by diverting water to storage and for power generation. The proposed project will negatively affect water quality in the Bear River, primarily by raising water temperatures.

The U.S. Fish and Wildlife Service (Service) has senior water rights in Idaho that serve the Bear Lake National Wildlife Refuge (NWR). The Service believes there is significant potential for the proposed transfers to injure these senior rights by diminishing water quantity, timing and quality. Idaho Department of Water Resources (IDWR) should carefully consider impacts from this transfer within Idaho and on downstream interstate users.

The Service also has senior water rights in Utah that serve Bear River Migratory Bird Refuge (MBR). These water rights are chronically under-served and will be further injured by approval of this application through increased consumptive use, retiming of runoff, and degraded water quality in the Bear River. The Service believes there are demonstrable impacts to Service water rights from the proposed project.

IDWR should carefully consider impacts from this application within Idaho and on downstream interstate users. The Service holds a 1000 cfs water right, with a priority date of 1928 for the Bear River MBR in Utah at the terminus of the Bear River basin. We are concerned about water use in the Bear River basin in Idaho, as well as in Utah.

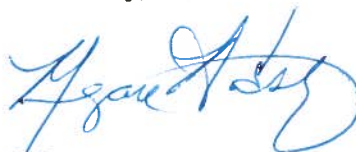
Protest fees \$25
EO33037

It is the position of the Service that there is no excess or surplus water available in the Bear River Basin during the irrigation season. The application by Twin Lakes Canal Company for the Oneida Narrows facility requests 30 cfs for irrigation during the period in which, in almost all years, the available water in the Bear River is not sufficient to meet the Service's needs.

Estimated evaporation from the surface of the new reservoir will increase the consumptive use by approximately 1,400 AFY, and worsen the lack of water availability in the Bear River Basin. This expansion of use could affect the availability of water in the basin and thus injure water rights held by the United States of America for both the Refuges. If you have questions or require further information, please contact Jana Mohrman of my staff at (303) 236-4486.

Enclosed you will find a Notice of Protest and a check in the amount of \$25.00 for the fee.

Sincerely,



Megan Estep
Chief, Division of Water Resources

Enclosures

cc: Solicitor's Office, Rocky Mountain Regional Office, Steve Hoffman
Office of the Regional solicitor
U.S. Department of the Interior
755 Parfet Street, Room 151
Lakewood, CO 80215

U.S. Department of Justice, Jim Dubois
Environment and Natural Resources Division
General Litigation Section
1961 Stout Street, 8th Floor
Denver, CO 80214

November 26, 1999

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 of 13-896B, 13-901, 13-946B, 13-2289, 13-2296 in the name of Twin Lakes Canal Company
2. Name of protestant United States Fish and Wildlife Service
3. Protestant's Representative for service (If different than protestant)

U. S. Fish and Wildlife Service, Mountain-Prairie Region, Post Office Box
4. Service mailing address 25486, Denver Federal Center, Denver, Colorado 80225-0486
5. Service telephone no. 303-236-5322
6. Basis of protest (including statement of facts and law upon which the protest is based)
See Cover Letter

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Mitigate for new consumptive uses, runoff retiming, and water quality impacts on downstream water rights

I hereby, acknowledge that if I, or my designated representative, fails 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.

Signed this 18th day of June, 2007

U.S. Fish and Wildlife Service

Protestant

Megan Estep, Chief, Division of Water Resources

Protestant's Representative

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.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
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FOR DEPARTMENT USE ONLY

Received by DC Date 6/25/2007 Time _____
\$25.00 fee Receipted by DC # E033037 Date 6/26/2007