

07/2008

Petition to Intervene
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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Department of Water Resources
Eastern Region

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, and 42-222, 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 Transfer Application # 74659 - Charles Burton
 2. Name of protestant Bear River Water Users Assn.
 3. Protestant's Representative for service (If different than protestant)
Carol Burton, Exec. Dir.
 4. Service mailing address 967 W. Bloomsbury Cove, Murray, Utah 84123
 5. Service telephone no. 801-560-4252 Email Address: carl.burton@comcast.net
 6. Basis of protest (including statement of facts and law upon which the protest is based)
Claim 13-7710 was protested in 2007. Applicant wants to use a 1960 right which is unknown to Association. Confusing application.
- (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? withdrawal of this application

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 26th day of January, 2011.

Bear River Water Users Assn.
Protestant

Carol Burton, Exec. Dir.
Protestant's Representative

Receipt
#E036410

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Department of Water Resources
Eastern Region

BEAR RIVER WATER USERS ASSOCIATION, INC.
ADMINISTRATIVE OFFICE

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Murray, Utah 84123

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Phone: 208-425-3385

Board Members:

Last Chance Canal Company
Cub River Canal Company
West Cache Canal Company
Bear River Canal Company
Utah Small Irrigators Assn.

Carly B. Burton,
Executive Director

Sharla Cox
Idaho Dept. Of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402

January 21 , 2011

Re: Motion to Intervene - Protest of Transfer Application #74659-Charles Barlow

Dear Ms. Cox:

This letter from the Bear River Water Users Association is in regard to the above referenced application. Due to a computer virus we were unable to access the Internet in December in order to review this application in a timely manner; hence, a motion to intervene is requested. The Association owns substantial early priority irrigation water rights in the Bear River and has long standing contracts with PacifiCorp to receive supplemental storage water from Bear Lake. Any additional depletions from the Bear Lake watershed and the Bear River drainage from groundwater or surface water sources could potentially negatively impact the Association members downstream of the project, including Last Chance Canal Company, Cub River Irrigation Company and West Cache Canal Company in Idaho and Bear River Canal Company in Utah. The concerns of the Association are outlined below.

It appears that the Statutory Claim (13-7710) filed by Mr. Barlow in 2007 was protested by this Association in a letter dated October 6, 2007 and we could not find documented evidence that the issues related to this claim were ever resolved. Now it appears Mr. Barlow is trying to use a 1960 priority water right as the basis for the transfer when it appears that the only right in existence for Cold Springs is decreed right 13-679 with a 1880 priority. So the Association does not understand how Mr. Barlow is attempting to establish new uses based on uncertain water rights under Idaho State Law and respectfully requests that this application be denied.

Sincerely,



Carly Burton

Executive Director

cc: PacifiCorp, Charles Barlow

Receipt
#ED36410.