

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

DEC 23 2010

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 Barlow
2. Name of protestant PacifiCorp
3. Protestant's Representative for service (If different than protestant)
Claudia Conder
4. Service mailing address 1407 W. North Temple #110 Salt Lake City, UT 84116
5. Service telephone no. 801-220-2252 Email Address: claudia.conder@pacificorp.com
6. Basis of protest (including statement of facts and law upon which the protest is based)
see attached

(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? withdrawal of 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 21ST day of December, 2010.

Claudia Conder
Protestant

WATER RIGHTS ADMINISTRATOR FOR PACIFICORP
Protestant's Representative

Receipt
#ED36329

December 20, 2010

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

RE: Transfer application 74659 Charles Barlow

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.

In 2007, Mr. Barlow filed a statutory claim (13-7710) to which PacifiCorp filed an exception. See attached. This transfer appears to now be an attempt to "swap places" with the claim which indicates a 1960 priority. Decreed water right 13-679 upon which this transfer is based has a priority of 1880. 13-679 is the only decreed right in the Dietrich Decree on Cold Spring Creek.

PacifiCorp respectfully requests that this transfer be denied on the basis that the claim is for irrigation of the same land as the decreed right and that no additional irrigation be allowed.

Cordially,



Claudia Conder
Water Rights Administrator for PacifiCorp

Cc: Charles Barlow
1130 Manchester Dr.
Kaysville, UT 84037

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 Permit No. 13-7710 in the name of Charles Barlow
2. Name of protestant PacifiCorp
3. Protestant's Representative for service (If different than protestant)
Claudia Conder
4. Service mailing address 1407 W. North Temple #110, Salt Lake City, UT 84116
5. Service telephone no. 801-220-2252
6. Basis of protest (including statement of facts and law upon which the protest is based)
See attached

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

7. What would resolve your protest? further explanation as to the historic use of the water, corrections to the information, withdrawal of the claim.

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 3rd day of OCTOBER, 2007

PacifiCorp

Protestant

Claudia Conder
Protestant's Representative

RECEIVED

OCT 05 2007

Department of Water Resources
Water Rights

Receipt
#E033464



1407 West North Temple
Salt Lake City, Utah 84116

October 03, 2007

Idaho Department of Water Resources
Eastern Regional Office
900 N. Skyline Dr. Ste. A
Idaho Falls, ID 83402-1718

RECEIVED

OCT 05 2007

Department of Water Resources
Eastern Region

RE: Protest of Application No. 13-7710 (Statutory Claim) Applicant: Charles Barlow

To Whom It May Concern:

PacifiCorp hereby protests the above referenced filing and would request that IDWR deny the applicant's application for the following reasons:

PacifiCorp owns water rights in the Bear River, the tributaries to Bear Lake, and Bear Lake decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited et al*, in Equity No. 203, July 14, 1920 and *Utah Power & Light Company v Richmond Irrigation Company, et al*, February 21, 1922, as well as other rights in the Bear River. Surface tributaries and groundwater infiltrating into the Bear River from the Bear River Basin contribute to water that supplies PacifiCorp's water rights, which are used for hydropower generation and other related purposes. PacifiCorp's water rights are vested and must be preserved free from unmitigated interference.

In addition to its water rights in the Bear River, PacifiCorp owns water rights in Bear Lake which it uses to deliver supplemental irrigation water to surface water users downstream with water rights in the Bear River. The recipients of this supplemental irrigation water have delivery contracts with PacifiCorp. Unauthorized diversions of water which result in additional depletion to the Bear River Basin cause less water to flow in Bear River, causing PacifiCorp to deliver them more water from Bear Lake.

PacifiCorp recognizes that the filing of statutory claims is allowed for use of water prior to May 20, 1971, however, a 1960 claim is a very late priority and diversion of any water tributary to the Bear River would, as previously mentioned, result in PacifiCorp needing to release additional water from Bear Lake.

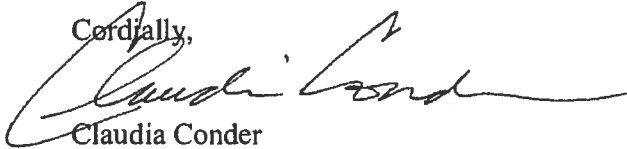
In the attachment to the application, deed from Bradley Milton Smith to Charles E. Barlow, Water Right Number 13-679 for 1.6 cfs from Cold Springs is included. Is this claim, 13-7710, intended to represent the same water as this decreed right? Neither the place of use nor the point of diversion in the claim is the same as in the decreed right 13-679. Also, 13-679 is for irrigation of 80 acres. The claim is for irrigation of 100 acres. Is the intent to allow irrigation of

an additional 20 acres? The decreed right is still in the name of John W. Harrington and shows a county of Elmore. Again, an error in the county information?

On the IDWR website, the county represented is Bear Lake County. The description appears to be in Caribou Co. I assume that this is an error and that it is in Caribou County. Given this, where was the public notice advertised?

PacifiCorp respectfully requests that the claim be denied for the reasons stated above. Thank you for your consideration in this matter. I can be reached at (801)220-2252.

Cordially,



Claudia Conder
Water Rights Administrator for PacifiCorp

Cc: Bear Lake Watch
Bear River Water Users Association
Charles Barlow