

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
DEC 20 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 Application to Appropriate 13-7763 Midway Water Assoc.
2. Name of protestant PacifiCorp
3. Protestant's Representative for service (If different than protestant)
Claudia Conder, Water Rights Administrator for PacifiCorp
4. Service mailing address 1407 W. North Temple #110, SLC, 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)
Amount asking to be appropriated exceeds the amount for domestic use and
does not meet the requirements set forth in the Bear River Ground Water
Management Plan.
see attached letter.
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Withdraw application or provide mitigation or
provide sufficient evidence that there is water available for
appropriation.

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 16th day of December, 2010.

Claudia Conder
Protestant

WATER RIGHTS ADMINISTRATOR FOR PACIFICORP
Protestant's Representative

Receipt
PD36324

December 16, 2010

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

RE: Application to Appropriate 13-7763 Midway Water Association

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 that seeks to appropriate 0.13 cfs for in house domestic use for eight (additional) households to be connected to the Midway Water Association for in house use. On February 24, 2003, IDWR issued the "Preliminary Order Adopting the Ground Water Management Plan" (Order) for the Bear River Ground Water Management Area. The plan was adopted as IDWR acknowledges and recognizes that there is no unappropriated water in the Bear River Basin in Idaho. The application does not meet the requirements set forth in the order. The application exceeds the limit of an exempt domestic filing in Idaho.

Unless the applicant can provide sufficient evidence that there is groundwater available or provide mitigation as set forth in the Ground Water Management Plan for the Bear River Ground Water Management Area, PacifiCorp respectfully requests that the application be denied.

Cordially,



Claudia Conder
Water Rights Administrator for PacifiCorp

Cc: Lynn Bingham, Midway Water Association
2535 N. 4000 W.
Dayton, UT 83232