

November 26, 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

RECEIVED
FEB 14 2008
Department of Water Resources
Eastern Region

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. 11-7586
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? records of historic use, record keeping going forward,
evidence that historic use has not diminished PacifiCorp's water delivery to contract holders
downstream, denial of 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 12th day of FEBRUARY, 2008

PacifiCorp

Protestant

Protestant's Representative

Receipt
#EO33767

February 11, 2008

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

RE: Protest of Application No. 11-7586 (Statutory Claim) Applicant: Fred Hunzeker & Sons

To Whom It May Concern:

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 this statutory claim is for use of 4.33 cfs since 1915. Since this is a significant amount of water, PacifiCorp is concerned that this diversion and use of water has not been sufficiently measured and use recorded in a manner to prove sufficient history of the use. Since this water flows directly into the Bear Lake outlet canal and then downstream, any increase in use from the historic use could require PacifiCorp to release more water out of Bear Lake than required previously.

PacifiCorp respectfully requests that the claimant install measuring devices and keep accurate records going forward to provide sufficient information for the claim being made. At the time that Idaho Water Resources makes a determination of this claim, a proper adjudication can be made based on the collective data.

Thank you for your consideration in this matter. I can be reached at (801)220-2252.

Cordially,

A handwritten signature in cursive script, appearing to read 'Claudia Conder', written in dark ink.

Claudia Conder
Water Rights Administrator for PacifiCorp

Cc: Bear Lake Watch
3539 E. Brighton Point Dr.
Salt Lake City, UT 84121

Bear River Water Users Association
967 W. Bloomsbury Cove
Murray, UT 84123

Fred Hunzeker & Sons
1041 Bench Road
Montpelier, ID 83254