

2. Protestant owns water rights in the Bear River 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 below Applicant's proposed point of diversion.

3. Application seeks to move his point of diversion to a more reliable source and change his method of irrigation to sprinkler irrigation. Moving to a more reliable source will increase the probability that Applicant will deplete more water than he has historically depleted, which will result in less water being available to downstream irrigation water users with prior rights.

4. Previous transfers on Soda Creek have placed increased demands on this water source, and there is less flexibility in the creek to accommodate transfers, especially when they could increase the amount of water diverted.

5. Protestant has entered into many contracts with irrigators in Idaho and Utah along the Bear River, some of whom may be Protestants in this matter, for supply of supplemental storage water from Bear Lake when the natural flow of the Bear River is insufficient to satisfy existing water rights. However, during drought periods, high irrigation demands cause the level of Bear Lake to drop significantly, endangering Protestant's ability to continue to deliver supplemental irrigation water pursuant to its contracts.

6. Granting the application of Applicant would adversely affect Protestant's water rights by decreasing the amount of Bear River natural flows used by PacifiCorp and its contract holders. When less water is available in Bear River, the contract holders must use more Bear Lake storage water.

WHEREFORE, Protestant respectfully protests the above-referenced application and requests that it be denied.

DATED this 24 day of January, 2005.

PACIFICORP, dba
UTAH POWER

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MAILING CERTIFICATE

On this 24th day of January, 2005, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

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Idaho Falls, Idaho 83402

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