PROTEST

PROTEST FEE PAID

\$15.00 18-01658

Fee Rec'd BY: ONLINE

April 6, 2018

Protestant: PacifiCorp

c/o Buffi Morris

1407 W. North Temple, #110 Salt Lake City, UT 84116

RE: Protest of Water Right Application 41-3747

Letter submitted via email on April 6th.

Buffi Morris

RECEIVED

APR 06 2018 WATER RIGHTS ONLINE



April 6, 2018

Mr. Kent L. Jones, P.E. Utah State Engineer 1594 West North Temple, Suite 220 Salt Lake City, Utah 84114-6300

Re: PacifiCorp protest regarding Export Application Number 41-3747 (A81080) filed by Water Horse Resources, LLC

Dear Mr. Jones:

PacifiCorp protests the Water Right Export Application/Application to Appropriate Number 41-3747 (A81080) ("Application") filed by Water Horse Resources, LLC. The Application fails to meet the requirements of the Utah Water Export Act and section 73-3-8 which governs applications to appropriate. In addition, because of PacifiCorp's significant water and power interests across the Green River Basin, there are critical concerns which must be addressed in investigating and reviewing the Application to protect PacifiCorp's interests. PacifiCorp respectfully requests that the Application be denied.

Background

PacifiCorp is a large, regulated western electric utility that serves approximately 1.8 million residential, commercial and industrial electric customers throughout its six state service territory, which includes Utah and Wyoming. It owns over 10,000 gross megawatts of electrical generation capacity company-wide, and nearly 80,000 miles of transmission and distribution lines across the west.

PacifiCorp's electrical system interconnects with other utilities in over 100 locations enabling PacifiCorp to buy and sell power with several other western utilities. This makes PacifiCorp a critical resource for supplying and moving power throughout the western states.

PacifiCorp is the owner, or majority owner, and operator of four coal fired power plants located in the Green River Basin with a combined generating capacity of over 5,000 megawatts. These plants include the Jim Bridger Plant and the Naughton Plant – which are located in southwestern Wyoming, and the Huntington Plant and Hunter Plant – which are located in southeastern Utah. These four plants have a combined annual water consumption of approximately 58,000 acre-feet. The water supplies used to operate these plants are generated either from the Green River itself or tributaries to the Green River, and are entirely made up of Colorado River Basin water.

In addition, PacifiCorp holds minority ownership interest in the Craig Station and Hayden Station, representing approximately 244 megawatts. Both the Craig Station and Hayden Station



are located in northwestern Colorado and both plants' water supplies are made up of water that is tributary to the Green River.

PacifiCorp will continue diverting water from the Green River and its associated tributaries into the future in order to continue operating these critical electrical generating facilities located within the Green River Basin. In this regard, PacifiCorp must assure that any and all aspects associated with Water Right Application 41-3747 and its associated project will be compatible with, and not jeopardize its current and future activities and operations.

PacifiCorp's Water Rights and Interests

PacifiCorp holds water entitlements in the Green River Basin, both upstream and downstream of the proposed points of diversion listed in the Application. The proposal by Water Horse Resources has potential to significantly impact the following PacifiCorp water rights and interests.

Huntington Plant (Utah): WR 93-1116 (Electric Lake)

WR 93-1115 (Huntington Creek)

Jim Bridger Plant (Wyoming): Permit 20 2/136 (Green River Pipeline)

Naughton (Wyoming): Permit 22297 (Hams Fork)

Permit 6418R (Viva Naughton Reservoir)

In addition to PacifiCorp's privately owned water rights, it owns: 1) shares in Huntington Cleveland Irrigation Company to supply water to the Huntington Plant; 2) shares in Ferron Canal and Reservoir Company and Cottonwood Creek Consolidated Irrigation Company and contract water in Joes Valley Reservoir with the Emery Water Conservancy District and the US Bureau of Reclamation – all for the Hunter Plant; and 3) a contract with the Wyoming Water Development Commission for Fontanelle Reservoir to supply water at the Jim Bridger Plant, as needed.

Reasons Why the Application Should be Rejected

<u>The Application is incomplete</u> without all the requisite information necessary to sustain approval under both the criteria of the water export statute and 73-3-8, including information demonstrating:

- The Application is consistent with Utah's reasonable water conservation policies or objectives;
- Is not contrary to the public welfare;
- It does not impair the ability of the state of Utah to comply with its obligations under any interstate compact or judicial decree which apportions water among Utah and other states;
- The water can be transported, measured, delivered, and beneficially used in Colorado;
- There is unappropriated water in the proposed source;
- The proposed use will not impair existing rights or interfere with the more beneficial use of the water;

- The proposed plan is physically and economically feasible and would not prove detrimental to the public welfare;
- The applicant has the financial ability to complete the proposed works;
- The application was filed in good faith and not for purposes of speculation or monopoly.

There are many unanswered questions relative to the proposed project and water rights which must be thoroughly investigated and addressed by the State Engineer. For example, with this being a Utah water right with the points of diversion located in Utah and the place of use in Colorado, who will administer the water right to ensure proper and timely distribution and beneficial use? Also, how will water under this application be administered in times of water shortages, including in the event of a future Colorado River Compact call, relative to all the water rights in Utah and Wyoming, including those of PacifiCorp?

<u>The application is highly speculative and vague.</u> The specific places and nature of use are unknown. No information has been provided regarding water contracts or other water use agreements demonstrating a real need for the water in Colorado.

The Application could lead to impairment of PacifiCorp's water rights. Appropriating such a large amount of water out of the Colorado River Basin has the potential to significantly increase the likelihood of triggering a water shortage in the lower Colorado River Basin, which could cause portions of PacifiCorp's existing water rights to be curtailed as expressed in the Colorado River Compact of 1922 and the Upper Colorado River Basin Compact of 1948. The increased likelihood of curtailment of water rights for PacifiCorp's operations is of great concern.

The proposed project pipeline location. PacifiCorp has concerns how the proposed pipeline location between the projects identified points of diversion and the proposed places of use, will impact PacifiCorp's current facilities and operations, including but not limited to PacifiCorp's Green River water supply pipeline that extends from the Green River to the Jim Bridger Plant, as well as the general Jim Bridger Plant and Bridger Coal mining facilities and operations located approximately 45 miles east of Rock Springs, Wyoming. These facilities and their current and future PacifiCorp operations must be considered in the planning and locations of the Water Horse Resources proposed project.

PacifiCorp does not request a hearing but requests notice if a hearing is held. Based on the above, PacifiCorp respectfully requests that the Application be denied.

Buffi Morris

Water Rights Administrator, PacifiCorp



waterrights DNR <waterrights@utah.gov>

41-3747 (A81080) PacifiCorp protest (receipt #18-01658)

1 message

Morris, Buffi <Buffi.Morris@pacificorp.com>
To: "waterrights@utah.gov" <waterrights@utah.gov>

Fri, Apr 6, 2018 at 4:45 PM

Attached is PacifiCorp's protest to the above referenced application and proof of payment.

Buffi Morris

Sr. Property Agent / Water Rights Administrator



o 801.220.7803

m 801.989.8817

3 attachments

- 41-3747_PacifiCorp protest_Water Horse Resources, LLC_4 6 2018.pdf
- Receipt_PacifiCorp Protest_Water Horse Resources.pdf
- PacifiCorp protest (online)_41-3747.pdf 6K



State of Utah DEPARTMENT OF NATURAL RESOURCES Division of Water Rights

MICHAEL R. STYLER Executive Director KENT L. JONES State Engineer/Division Director

	Date: April 6, 2018		
41-3747	\$	15.00	
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TOTAL:	\$	15.00	
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