

# PROTEST

**PROTEST FEE PAID**

\$15.00 25-04049

Fee Rec'd BY: ONLINE

August 12, 2025

Protestant: Central Central Utah Water Conservancy District  
c/o Gary Brimley, Water Rights Engineer  
1426 East 750 North Ste. 400  
Orem, UT 84097-5474

RE: Protest of Change Application f53218 (91-5233)

Please see enclosure.

Gary Brimley, Water Rights Engineer

Enclosure

**RECEIVED**

**AUG 12 2025**

**WATER RIGHTS**

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CONSERVANCY DISTRICT**

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August 12, 2025

Teresa Wilhelmsen, P.E.  
Utah State Engineer  
Division of Water Rights  
1594 W. North Temple Suite 220  
P.O. Box 146300  
Salt Lake City, UT 84114-6300

**Protest of Fixed Time Change 91-5233 (f53218)**

As an authorized employee of Central Utah Water Conservancy District (District), this document respectfully protests on behalf of the District the Fixed Time Change Application 91-5233 (f53218) which proposes to change 2000 acre-feet of water to be appropriated from the Green River for instream flow.

Central Utah Water Conservancy District is the repayment entity for the Central Utah Project, under which development of numerous diversion structures, tunnels and pipelines including for transmountain diversion, and reservoirs, as well as significant beneficial uses of water have been developed in the Uinta Basin and the Bonneville Basin, under Water Right 43-3822. The District holds approved applications to appropriate water 43-3825 (A36642), 43-9894 (A36642a) and 43-11127 (A36642b) for 100,000 acre-feet. The District holds a separate pending fixed time application to move water to Lake Powell under perfected water right 43-3822 (f52725). The Central Utah Project water supply is also secured by a subordination agreement on a portion of



the Flaming Gorge water rights ([www.waterrights.utah.gov/docImport/0539/05399644.pdf](http://www.waterrights.utah.gov/docImport/0539/05399644.pdf)) being developed on the Green River. The District is particularly interested in the Green River and more broadly the Colorado River System and will be significantly concerned if a Colorado River compact call is made. Approval of the fixed time change application 91-5233 (f53218) will interfere with the District and Federal obligations on the river system and will set a poor precedence of approving applications for instream flows on unperfected water rights.

The District protests Fixed Time Change 91-5233 (f53218) on the following grounds:

1. The applicant has not timely filed proof with the State Engineer as required by Utah Code § 73-3-16 for the underlying Application to Appropriate Water Right 91-5233 (A37287a).
2. A certificate has not been issued by the State Engineer for the Application to Appropriate Water Right 91-5233 (A37287a) under Utah Code § 73-3-17.
3. Therefore, the underlying Water Right 91-5233 (A37287a) is an unperfected application to appropriate water under Utah Code § 73-3-1 *et seq.*
4. Since the Application to Appropriate Water Right 91-5233 (A37287a) is an unperfected application to appropriate water, it is a new appropriation.
5. Likewise, a change on an unperfected application to appropriate water is a new appropriation. *See* Utah Code § 73-3-3(6). As upon approval of the change the underlying application to appropriate water remains unperfected, it is a new appropriation.



6. Utah Code § 73-3-30(6) states that “a person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow.”
7. Fixed Time Change Application 91-5233 (f53218) proposes a new appropriation to be made for the purpose of providing an instream flow, contrary to Utah Code § 73-3-30(6).
8. Utah Code § 73-3-30(2)(c) states that a fixed time change application for instream flow may be filed by a division only on “a perfected water right” or “an appurtenant water right acquired with the acquisition of real property.”
9. The Utah Division of Wildlife Resources is an applicant on this application.
10. Utah Code § 73-3-30(2)(c) clearly prohibits Fixed Time Change Application 91-5233 (f53218) and therefore it should be denied.

### **REQUEST FOR RELIEF**

The District respectfully requests the State Engineer deny Application 91-5233 (f53218). A hearing is not requested by the District, but if a hearing is to be held, then please notify the District so that the District can attend and participate in the hearing on this matter.

Central Utah Water Conservancy District

A handwritten signature in black ink that reads "Gary Brimley". The signature is written in a cursive, flowing style.

Gary Brimley, P.E.  
Water Rights Engineer