

State of Utah,
County of Salt Lake.

ss.

IN THE OFFICE OF THE STATE ENGINEER.

In the Matter of the Application of
the Progress Company, a Corporation,
to appropriate sixty (60) cubic feet
per second of water from Big Cotton-
wood Creek, Salt Lake County, Utah.

PROTEST.

(In Duplicate.)

To the Hon. Caleb Tanner,

State Engineer of the State of Utah.

Sir:-

Salt Lake City, a municipal corporation, respectfully protests against the application of the Progress Company, a corporation to appropriate sixty (60) cubic feet per second of water from Big Cottonwood Creek, Salt Lake County, Utah, to be used from January 1st to December 31st, inclusive, each year, which application is designated in your office as No. 1569.

This protest is made upon the following grounds:

1. That there is no unappropriated water of Big Cottonwood Creek.

2. That there is no such amount of water flowing down Big Cottonwood Creek during the whole year as the applicant seeks to appropriate; that except in the time of flood waters, to-wit, during the months of May and June, there is not to exceed sixty (60) cubic feet per second of water flowing down said Creek; that for about nine (9) months of the year there is not to exceed forty-five (45) ^{Cufts} feet per second of water flowing down said Creek.

3. That all water normally flowing down said Big Cottonwood Creek has been appropriated, and is taken therefrom through the following conduits, ditches and canals, to-wit: Salt Lake City Conduit, Butler, Brown & Sanford, and Ellison Ditches; and Upper Canal, and by other ditches and canals when said point

4. That this protestant, Salt Lake City, has a population of about one hundred thousand (100,000), and that said population is largely dependent upon the waters of Big Cottonwood Creek for use for domestic and culinary purposes, and to the end of furnishing water to the inhabitants of said City, this protestant has acquired by exchange over one-half of the waters of said Big Cottonwood Creek for the entire year, and has expended, in the construction of a conduit to convey said waters to where the same may be used by the inhabitants of said City, the sum of over four hundred and eight thousand four hundred and twenty-four (\$408,424.00) dollars; the intake of which conduit is a long distance up said Creek from the point where the applicant asks to divert the waters sought to be appropriated.

5. That the applicant has already claimed certain rights in the waters of said Big Cottonwood Creek, and is seeking to maintain such claim in an action brought by it in the Third Judicial District Court in and for Salt Lake County, Utah, before the Honorable C. W. Moran, Judge of said Court; that in said action said applicant has made this protestant and every other claimant of the water of said Big Cottonwood Creek defendants; that all claimants of water in said Creek have submitted to said Court their respective claims; that said cause has been tried, which trial consumed about sixty (60) days, and the final submission to the Court by argument is set for April 13, 1908; that the decision of said Court will, as protestant believes, decree to each claimant of water from said Creek the amount to which they are respectively entitled, and until such decision by said Court, this protestant protests against any consideration of this application for the reason that this applicant has submitted to said Court all claims it has upon the waters of said Creek, and for the reason that all other claimants of water in said Creek have submitted their claims to said Court, and any action on the part of the State Engineer of this application before the final decision of said Court, will be improper and without warrant of law.

3. That it is the intention of your protestant, Salt Lake City, to acquire all the surplus waters of said Big Cottonwood Creek, and to erect and maintain dams and storage reservoirs in Big Cottonwood Canyon; that such action by your protestant has been intended for a long time, and to that end your protestant has purchased certain land at the head of Big Cottonwood Creek with the view of erecting such dams and storage reservoirs, which intention will be carried out by your protestant within a very short time. That if the application asked for by the applicant is granted, such action will compel your protestant to make such terms with said applicant as shall be demanded by it to obtain the water contemplated by your protestant, and as your protestant is informed and believes, it is one of the intentions to acquire said water for the purpose of compelling your protestant to pay a large sum of money for the rights asked for in said application, and that said application is not made in good faith.

WHEREFORE, Your protestant prays that the said application of applicant be denied.

H. J. Dunning
Atty for Salt Lake City

SALT LAKE CITY,

By *J. S. Crawford*
 Mayor.

State of Utah,
 County of Salt Lake.

I, L. C. Kelsey, being duly sworn, on oath say: I am an officer of said protestant Salt Lake City, City Engineer; I have read the foregoing protest and know the contents thereof; that the same is true of my own knowledge.

L. C. Kelsey

Subscribed and sworn to before me this 25th day of March, 1908.

H. H. Montgomery
 Notary Public.

My commission expires March 17, 1910