



CENTER for BIOLOGICAL DIVERSITY

1 March 2010

Mr. Kent Jones, State Engineer  
Utah Division of Water Rights  
P. O. Box 146300  
Salt Lake City, Utah 84114-6300

Original to  
electronic copy  
Received  
3/1/10  
KH

RECEIVED  
MAR 04 2010  
WATER RIGHTS  
SALT LAKE

**TIMELY**

**RE: SUPPLEMENTARY TESTIMONY BEFORE THE UTAH DIVISION OF WATER RIGHTS TUESDAY, JANUARY 12, 2010 IN THE JOHN WESLEY POWELL MUSEUM LOCATED AT 1765 EAST MAIN, GREEN RIVER, UTAH, PURSUANT TO UTAH ADMINISTRATIVE CODE R655-6, R655-6-11, R655-6-12 AND R655-6-14, REGARDING CHANGE APPLICATIONS A35874 AND A35402 AND WATER RIGHTS 09-462 AND 89-74.**

Dear Mr. Jones,

The Center for Biological Diversity ("Center") is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 240,000 members and on-line activists throughout Utah, Arizona, Nevada, Colorado, California and the United States.

On behalf of the Center, please accept the following testimony relating to (1) change application a35874 submitted by San Juan County Water Conservancy District for water right 09-462 and (2) and change application a35402 submitted by Kane County Water Conservancy District for water right 89-74, both to facilitate and support the construction of a nuclear power plant in Emery County near the town of Green River. The Center protested application a35874 before the Utah Division of Water Rights in October 2009 and protested application a35402 before the Division in May 2009; the Center is thus a formal protestant of both applications under Utah Statute, R655-2-1. The Center submitted additional written and oral testimony to the State Engineer on 12 January 2010. The following comments and information are provided in addition to the Center's protest and supplementary testimony to date.

- I. **APPROVAL OF CHANGE APPLICATIONS WOULD RESULT IN WATER DEPLETIONS AND IMPACTS TO ENDANGERED FISH THAT HAVE NOT BEEN CONSIDERED IN DECISIONS AND BIOLOGICAL OPINIONS RELATING TO RECOVERY FLOWS AND THE SURVIVAL AND RECOVERY OF ENDANGERED FISH.**

The context for the change applications includes over-appropriation of water in the upper basin and likely also the Green River, reduced future water availability resulting from climate change, and statutory requirements to provide flows for the recovery of four endangered fishes. Change applications, if granted, would deplete over 53,000 acre feet of water from the Green River