

*Read aloud at hearing on January 12, 2010*

BA WTR  
WR UT  
Mail Stop 60189

Kent L. Jones, P.E.  
State Engineer  
Division of Water Rights  
1594 West North Temple, Suite 220  
Salt Lake City, UT 84116-3154

Subject: Blue Castle Nuclear Power Project change applications; a35402 (89-74) and a35874 (09-462)

Dear Mr. Jones:

The U.S. Fish and Wildlife Service (Service) has two concerns about the applications to divert 53,600 acre-feet of water for the proposed Blue Castle Power Project.

- 1) These additional depletions could contribute to further decline of the Three Fish Species in Utah; roundtail chub, bluehead sucker and flannelmouth sucker and lead to potential listing under the Endangered Species Act (ESA). If these species were listed, water development throughout their habitat would become more regulated. These species range nearly statewide, thus, this would be a significant impact. Therefore, due to the potential reduced ecological function of the Green River, impacts to wildlife species, and impediment to water development across the state, the proposed water right transfer does not meet the public interest criteria. This concern was referenced in the USFWS objections dated May 26 and September 25 2009.
- 2) These additional depletions could inhibit protection of flows identified by the Upper Colorado River Endangered Fish Recovery Program (Recovery Program) as necessary to assist in recovery of the currently listed endangered fishes.

This water has not been previously diverted from the Green River system. The Service believes that this large depletion would have considerable impacts to the Green River ecosystem, impairing the overall ecological function of the river. River habitat downstream to Lake Powell would be degraded, affecting many citizens and wildlife species.

The Green River, Utah, Water Acquisition Team (Team), an ad-hoc committee of the Recovery Program, is currently working to develop mechanisms to protect water released from Flaming Gorge Reservoir to provide habitat for the endangered fish.

**Options the Team is considering include:**

- Limit movement of water rights upstream
- Subordinate new water rights filed to approved rights and flows needed to assist in recovery of the endangered fish
- Limit extensions of rights that have not been put to beneficial use
- Limit new storage projects that could reduce spring flows
- Encourage the use of water service contracts for delivery of water from Flaming Gorge Reservoir (versus new direct flow rights from the Green River)
- Adaptive management under the Biological Opinion for Flaming Gorge as the endangered fish demonstrate recovery

The Service requests that the State Engineer deny, delay, or give a junior priority date to the Blue Castle Power Project rights. We are concerned about the extension policies and moving unperfected tributary rights upstream to become mainstem rights on the Green River. We are concerned about cumulative impacts on existing uses and flows in the Upper Colorado River Basin. Habitats in the Green River are considered critical to recovery of these fish and protection of other native fish. We ask that any decision on moving these unperfected rights be delayed until after the Team has provided suggestions for a future course of action.

Sincerely,

Megan A. Estep  
Chief, Division of Water Resources