

May 26, 2009

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BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

In RE: Application for Permanent Change :
of Water #a35402 on water right 89-74 :
by Bob Quist Owner/operator : PROTEST
In Emery County :

I. Introduction

Robert Quist and Moki Mac River Expeditions, Inc., hereby protest the Application for Permanent Change of Water a35402 by Kane County Water Conservancy District ("District") on the following water rights: 89-1285, 89-74, and 89-1513, for a total of 29,600 acre-feet of water.

II. Protesting Party

Moki Mac is a family owned and operated river expedition company with licenses to operate on various sections of the Green River and Colorado Rivers. Moki Mac has been family owned and operated for 39 years, and is dedicated to providing clients with outstanding whitewater camping experiences. Moki Mac also owns a twenty acre farm with 57 shares of Green River Canal Co. water rights.

Legal Framework

Overview

Utah state law contains several requirements that a water application must meet in order to be approved; these are found in Utah Code Ann. §73-3-8 (1). If the State Engineer finds that the

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application “does not meet the requirements of this section, it shall be rejected.” Utah Code Ann. §73-3-8 (1) (b) (ii).

The proposed use could unreasonably affect public recreation

Diverting water from the Green River near the town of Green River could substantially reduce water flow over sections of the river noted for their beauty and recreational value, including Labyrinth Canyon, Stillwater Canyon, and Cataract Canyon. My business depends upon people wanting to recreate along these stretches of water. If the proposed water use—by itself or in combination with other uses—substantially lowers flows, my business could be impacted. Lower flows mean slower river trips and potentially less thrilling white water trips. Low flows can also expose hazards like large rocks that would normally be submerged—further reducing the recreational appeal of the water below the town of Green River. The length of the season suitable for river trips could also be shortened by lower flows caused by the nuclear power plant’s water use.

Additionally, the nuclear power plant’s proximity to the Green River could deter some outdoor-minded people from recreating along this stretch of the Green River, period. The applicant should disclose whether cooling towers will be visible from the river and if so, along which stretches of the river.

Until the applicant demonstrates otherwise, the application should be rejected for not demonstrating that the nuclear power plant will not “unreasonably affect public recreation.” Utah Code Ann. §73-3-8 (1) (b) (i).

The proposed use could unreasonably affect the natural stream environment

Furthermore, the nuclear power plant could affect the natural stream environment in several ways. Lower stream flows, the potential for returning significantly heated water to the river, as well as other discharges from the plant could drastically affect stream habitat. The District fails to address any of these issues and these issues should be investigated before any approval is given. Utah Code Ann. §73-3-8 (1) (b) (i).

III. The change application should be rejected

The applicant has not met the burden of proof as required by Utah law for a water change application; the application should be rejected.

IV. Hearing

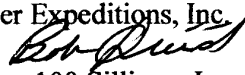
I request that a hearing be held in connection with this application.

V. Conclusion

I respectfully request that the State Engineer reject or at least investigate the change application.

The applicant has failed to meet its burden of convincing the State Engineer that all statutory requirements under Utah Code Ann. §73-3-8 (1) have been met.

Respectfully submitted, May 26, 2009.

Bob Quist
Owner/Operator
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