



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:

BA WTR  
WR UT  
Mail Stop 60189

MAILING ADDRESS:  
P.O. Box 25486, DFC  
Denver, Colorado 80225-0486

STREET LOCATION:  
134 Union Boulevard  
Lakewood, Colorado 80228-1807

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

MAY 26 2009

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5-26-09

RE: Letter of Concern for Application to Appropriate Water No. 89-74 (a35402)

Dear Mr. Jones:

The U.S. Fish and Wildlife Service (Service) is concerned about the Application to Appropriate Water No. 89-74 (a35402) for 29,600 acre-feet from the Green River. The proposed water right transfer from Kane County to the nuclear power generating facility, would have considerable ecosystem effects on the Green River. This large depletion from the Green River would impair the overall ecological function of the river. River habitat downstream to Lake Powell would be degraded, affecting many citizens and wildlife species.

The depletion would harm state sensitive species (discussed in the next paragraph), which could result in the species being listed under the Endangered Species Act (ESA). If these species were to become listed under the ESA, water development in all areas inhabited by these species would become tightly regulated. Since the range of these species is basically statewide (in almost all intermediate to large desert rivers), a vast portion of the state would be impacted. Because of the reduced ecological function of the Green River, the impacts to wildlife species, and the potential impediment to water development across the state, the proposed water right transfer does not meet the public interest criteria.

A Conservation and Management Plan for Three Fish Species in Utah (Conservation Plan) has been finalized for roundtail chub (*Gila robusta*), bluehead sucker (*Catostomus discobolus*), and flannelmouth sucker (*Catostomus latipinnis*), hereafter referred to as the three species. The Service signed a conservation commitment to "assist with and participate in the implementation of"<sup>1</sup> the Conservation Plan. Additional agency partners who have signed the Conservation Plan include the Utah Division of Wildlife

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<sup>1</sup> Utah Division of Wildlife Resources. 2006. Conservation and Management Plan for Three Fish Species in Utah. Utah Department of Natural Resources, Salt Lake City, UT. 82 pp.

Resources (UTDWR), Bureau of Land Management - Utah State Office, Bureau of Reclamation - Upper Colorado Region Office, U.S. Forest Service - Intermountain Region Office, National Park Service - Intermountain Region Office, and The Nature Conservancy in Utah.

The primary goal of the Conservation Plan is to “prevent the listing [of the three species under the ESA] through proactive conservation of their populations and habitat throughout the State of Utah because “each of these species has experienced population declines in recent years due to habitat loss through water development, the introduction of native species as both predators and competitors, and indirect effects brought upon by these impacts.”<sup>2</sup> Preventing the listing of these species under the ESA is expected to benefit the State of Utah, UTDWR, other natural resource agencies, and the communities surrounding the three species’ habitat.

Currently, the three species occupy a highly reduced portion of their historical range. Roundtail chub currently occupy approximately 55% of their historical range in the upper Colorado River basin, whereas flannelmouth and bluehead sucker occupy 50% and 45% of their former upper basin ranges, respectively. The constriction of historical distributions for these species has been attributed to water use practices, habitat loss, and the invasion of non-native fish species.

In order to effectively implement the Conservation Plan and prevent the three species from possibly becoming listed, it is the goal of the Conservation Plan to establish viable populations of these species in suitable habitats. The proposed water right transfer could potentially harm the conservation of these species by reducing water in one of the primary habitats of the three species, the Green River. A large scale water depletion, such as what would be required to support a nuclear power plant, could have negative impacts that include:

- Reducing water quantity that support the three species habitat, such as:
  - Instream flows providing habitat availability of sufficient quality throughout the year;
  - Natural flow regimes (spring runoff peak) that provide ecological cues for spawning;
  - Flood volume and frequencies that provide channel maintenance, sediment movement, and off-channel nursery habitat;
- Providing competitive advantages to non-native fish through an altered biological environment;
- Reducing water quality by reducing the dilution capacity of the river system for pollutants such as selenium, mercury, and agricultural runoff;

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<sup>2</sup> Ibid.

- Increasing stream temperature through a reduction in volume of flow (and the potential action of returning warmer processed water back into the river);

We ask that the State Engineer deny the application for 29,600 acre-feet or delay it until the impacts of the proposed diversion on the state listed fish can be analyzed. We are concerned about the cumulative impacts of future diversions that may affect the flows in the Green River. If you have questions concerning this letter, please contact Jana Mohrman of my staff at 303-236-4486.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan A. Estep". The signature is fluid and cursive, with the first name being the most prominent.

Megan A. Estep  
Chief, Water Resources Division