

Wildlife Service, OPERATION OF FLAMING GORGE DAM, FINAL ENVIRONMENTAL IMPACT STATEMENT, FINAL BIOLOGICAL OPINION, pp. 18-56, (SEPTEMBER 2005) and FINAL PROGRAMMATIC BIOLOGICAL OPINION FOR BUREAU OF RECLAMATION'S OPERATIONS AND DEPLETIONS, OTHER DEPLETIONS, AND FUNDING AND IMPLEMENTATION OF RECOVERY PROGRAM ACTIONS IN THE UPPER COLORADO RIVER ABOVE THE CONFLUENCE WITH THE GUNNISON RIVER, pp. 19-35, (DECEMBER 1999).. In addition, the Utah Division of Wildlife Resources states that water developments, such as the Application in this case, may proceed in the Basin only in accordance with federal and state laws. Utah nonnative fish management questions and answers- http://wildlife.utah.gov/fishing/nonnative/q_and_a.html (UDWR Q&A).

An endangered species is one that is "in danger" of extinction throughout all, or a large portion of, its habitat. Because these fishes are so rare, they are protected by state laws and the federal Endangered Species Act (ESA). U.S.C. 16 USC § 1533. In passing the ESA, Congress reflected society's belief that rare species should be saved whenever possible. U.S.C. 16 USC § 1531, et seq. Specifically, recovery of the endangered fishes requires that use and development of water from the Upper Colorado River Basin may proceed only in compliance with the Endangered Species Act (ESA). As in the case of the Application in this case, since 1988, the U.S. Fish and Wildlife Service has applied the ESA to 756 water projects depleting approximately 1,725,000 acre-feet of water in the Upper Colorado River Basin. UDWR Q&A. This has occurred in the form of status of fish populations and recovery actions such as flow management, habitat restoration, nonnative fish management, and stocking endangered fishes. *Id.* Finally, that the

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