

## FACT SHEET

### Protests Due May 25 for Green River Water for the Blue Castle (Nuclear) Generation Project

#### SUMMARY

The Kane County Water Conservancy District (KCWCD) submitted an application to the Utah State Engineer, Division of Water Rights, to change the point(s) of diversion, place of use, and nature of use for 29,600 acre feet of water (over 26.5 million gallons per day) from the Green River. The March 30, 2009, Application for Permanent Change refers to Water Rights 89-74, 89-1285, and 89-1513. The KCWCD leased the water to Transition Power Development LLC (Transition Power), for a 2-unit nuclear power reactor, named the Blue Castle Generation Project.

Protests and requests for a hearing must be filed with the Kent L. Jones, State Engineer, Division of Water Rights, P.O. Box 146300, Salt Lake City, Utah, 84114-6300 on or before **May 25, 2009**. An objection to the application must state the filing number (a35402), reasons for objections, protestant's name and address, and any request for a hearing. A protest must be signed by the protesting party or representative. A protest may be faxed, but a signed paper copy must also be sent in the mail. Fax to 801-538-7467.

These are informal proceedings pursuant to Utah Administrative Code Rule R655-6-2 of the DWR.

Transition Power proposes to site the reactor on land about three (3) miles west of the City of Green River in Emery County, Utah. The site is part of an industrial development park on land that Emery County has leased from the Utah School and Institutional Trust Lands Administration. In addition to the water from the KCWCD, Transition Power has leased 24,000 acre-feet of water from San Juan County Water Conservancy District.

There are great many issues associated with the use of the water from the Green River in this time of drought. There are major health and safety and environmental issues associated with the construction and operation of a nuclear power station next to a major Union Pacific passenger and freight rail line, an interstate highway (I-70), the town of Green River, and the Green River (a major tributary of the Colorado River).

#### Additional Information:

- Utah Division of Water Rights: <http://waterrights.utah.gov/default.asp>
- KCWCD Application: <http://168.179.220.62/docImport/0522/05229212.pdf>
- Water Right 89-74 (primary water right):  
<http://www.waterrights.utah.gov/cblapps/wrprint.exe?wrnum=89-74>
- Water Right 89-1285:  
<http://www.waterrights.utah.gov/cblapps/wrprint.exe?wrnum=89-1285>
- Water Right 89-1513:  
<http://www.waterrights.utah.gov/cblapps/wrprint.exe?wrnum=89-1513>  
(Note: At water right page, click on arrow for *Select Related Information* (upper left) to bring down menu; click on *Scanned Documents* to bring up links to water right records.)

- Uranium Watch: <http://www.uraniumwatch.org/transitionpower.htm>

### **Kane County Water Conservancy District Application to Change Point of Diversion, Place of Use, and Nature of Use of Water for the Blue Castle Generation Project**

The Kane County Water Conservancy District (KCWCD) submitted an application to the Utah State Engineer, Division of Water Rights, to change the point(s) of diversion, place of use, and nature of use for 29,600 acre-feet of water (over 26.5 million gallons per day) from the Green River for the Blue Castle Generation Project. The March 30, 2009, Application for Permanent Change refers to Water Rights 89-74, 89-1285, and 89-1513.

The appropriated water would be used at the site for cooling the reactor and will not be returned to the river.

The water was originally appropriated in 1964 to private parties for a coal-fired power plant on Lake Powell. The KCWCD was given the water rights in 2003. The water has never been put to beneficial use, as required under Utah water right law. The last date to show proof of beneficial use was September 30, 2008. KCWCD made a request for extension of time to show proof of beneficial use in September. This request was protested, but no hearing date has yet been set.

The March 30 change application has been noticed, providing an opportunity for interested persons to protest and request a hearing under the Utah Administrative Code Rule R655-6.

Transition Power would need various other permits and licenses, including: a Nuclear Regulatory Commission (NRC) Early Site Permit or a Combined License for a new reactor, an Emery County conditional use permit, a Utah Division of Air Quality permit, easements for the water pipelines from the Green River to the reactor site, and approval by one or more state utility regulators. The NRC licensing process includes an Environmental Impact Statement (EIS). The EIS process provides an opportunity for public scoping comments and comments on the draft EIS. The permitting processes do not begin until Transition Power submits an application to the NRC and that application is found to be complete. The processes take many years.

The application for the change in the water right is a first major step by the supporters of Transition Power to acquire water and land for the nuclear generating station. Thus far, Transition Power has stated that they have set up an "escrow account" for money for the purchase of the site, but they canceled their option to purchase the land. Transition Power has not held any public informational meeting in Green River, nor have they been open throughout this process.

### ISSUES

1. The requirements for approval of an application for a new appropriation or a change are found at Utah Code 73-3-8. Approval or rejection of application. See [http://le.utah.gov/~code/TITLE73/hm/73\\_03\\_000800.htm](http://le.utah.gov/~code/TITLE73/hm/73_03_000800.htm)

2. According to Section 73-3-8, it shall be the duty of the state engineer to approve an application if:

- There is unappropriated water in the proposed source.
- The proposed use will not impair existing rights.
- The proposed use will not interfere with the more beneficial use of the water.
- The proposed plan is physically feasible.
- The proposed plan is economically feasible.
- The proposed plan will not be detrimental to the public welfare.
- The applicant has the financial ability to complete the proposed works.
- The application was filed in good faith and not for purposes of speculation or monopoly.
- The appropriation will not unreasonably affect public recreation.
- The appropriation will not unreasonably affect the natural stream environment.

If an application does not meet the requirements of this section, it shall be rejected.

3. The application does not contain any information that addresses any of the above criteria and could form a basis for any of the findings in Section 73-3-8.

4. There is ample evidence that the proposed use of the water would not meet any of the requirements for the State Engineer's approval, or there is a lack of evidence that the use could meet the criteria; for example, financial feasibility.

5. A protest does not have to contain all of the arguments and supporting data and information that address the requirements for approval. That would be presented during the hearing phase.

6. During a hearing, parties that did not protest could be given an opportunity to present testimony on behalf of a protestor.

Further Information:

- NRC New Reactor Regulation:  
<http://www.nrc.gov/reactors/new-reactors.html>
- Protest of use of water from Green River for a uranium mill:  
<http://www.uraniumwatch.org/mancosmill.htm>
- Sign up to be notified when there is any change in a water right, such as a notice, application, letter, decision:  
<http://waterrights.utah.gov/cblapps/concernedcitizen.exe?Startup=NOW>