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Governor
GREG BELL
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER KENT L. JONES
Executive Director State Engineer/Division Director

MAR 29 2011

ORDER OF THE STATE ENGINEER
For Fixed-Time Application Number 91-5150 (F77918)

Fixed-Time Application Number 91-5150 (F77918), in the name of Mancos Resources, Inc., was filed on March 28, 2008, to appropriate 800 acre-feet (af) of water from the Green River. The diversion is to be located North 1950 feet and West 800 feet from the SE Corner of Section 17, T20S, R16E, SLB&M at an existing diversion operated by Green River Canal Company on land administered by the U.S. Bureau of Land Management. The water is to be used for industrial purposes in a uranium processing mill. The water is to be used in all or portion(s) of Section 36, T20S, R14E, SLB&M. The fixed time approval period requested on the application is twenty (20) years.

Notice of the application was published in The Times-Independent on May 8 and 15, 2008 and in the Emery County Progress on May 6 and 13, 2008. Protests were received from Redrock Forests, et al., Tim Vetere, and Green River Canal Company. A hearing was held on October 1, 2009. At the hearing, additional time was requested by the protesting parties to provide written testimony for this application. The record for this hearing was held open until October 15, 2009.

At the hearing, Mr. Steve Glass with Mancos Resources, Inc. represented the applicant and Mr. John Weisheit represented Redrock Forests, Moab Local Green Party and Living Rivers. Neither Tim Vetere nor Green River Canal Company was represented at the hearing.

Mr. Glass indicated the proposed project is a conventional uranium mill. He indicated the site for this project was selected after a two-year site selection process and was chosen because the company believes it has the best environmental controls. Mr. Glass indicated that the land is currently administered by the Utah School and Institutional Trust Lands Administration but that Mancos Resources has a purchase option on the property. The life span of the project is anticipated to be 40-years. Mr. Glass acknowledged that a number of other approvals and permits will be needed for a project of this scope. He also stated Mancos Resources has initiated their base line environmental data gathering and is currently in the permitting process. Mr. Glass indicated the water diverted would be totally consumed in the milling operation and no water is to be returned to the river. The main industrial uses anticipated include dust suppression, crusher operations, and leach tanks. Mr. Glass indicated the water usage and flow rate to the mill would be fairly constant. Potable water for the mill will be provided by Green River City.

Mr. John Weisheit, Conservation Director for Living Rivers, presented the remarks for Redrock Forests, et al., (RRF) and restated the objections detailed in RRF's written protests. The protest raised objections, based on the criteria contained in Utah Code Annotated §73-3-8, that the proposed application: may impair existing water rights and interfere with the more beneficial use of the water; may not be physically and economically feasible; may have been filed for the purposes of speculation; may prove detrimental to the public welfare; may unreasonably affect

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public recreation or the natural stream environment; may adversely impact instream flows which may unreasonably affect the habitat of existing fish and wildlife in the area; may not have sufficient unappropriated water in the source to supply this application; and may have other issues related to land ownership, climate change, access issues and the need for other permits. The protesting party did not identify specific water rights that would be impaired by this application.

Tim Vetere is concerned with the proposed use of the existing diversion dam as the point of diversion for this application. Green River Canal Company is also concerned with Mancos Resources' intent to use the canal as a source from which to pump the water they seek for this application.

Mike McCandless representing Emery County also appeared at the hearing and expressed support for this project. He indicated that the land necessary to construct and operate the mill is contained within an industrial park.

The State Engineer has reviewed the application, the information provided in the various submittals prepared in support and in protest of the proposed project, the information provided at the hearing, the written testimony submitted after the hearing, information from the U.S. Nuclear Regulatory Commission (NRC), information from the Utah Department of Environmental Quality and the water rights of record.

In an effort to obtain information about the applicant's ability both financially and technically to develop the project, correspondence dated February 16, 2011, was sent to the applicant requesting additional information. The applicant did not respond to that correspondence. It appears that there is insufficient information before the State Engineer to establish a reason to believe that the applicant has met the criteria of UCA §73-3-8(1)(iv and v).

It is the opinion of the State Engineer that this application meets some of the requirements of UCA §73-3-8. However, an application can only be approved if there is reason to believe that all of those requirements have been met. The applicant has not provided sufficient information to support a finding that the applicant has the financial ability to pursue this application in a timely manner. Therefore, the State Engineer believes that this application should be rejected.

It is, therefore, **ORDERED** and Fixed-Time Application Number 91-5150 (F77918) is hereby **REJECTED**.

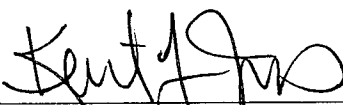
Your contact with this office, should you need it, is with the Southeastern Regional Office. The telephone number is 435-613-3750.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. **A Request for Reconsideration must be filed with the State**

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Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 29th day of March, 2011.



Kent L. Jones, P.E., State Engineer

Mailed a copy of the foregoing Order this 29th day of March, 2011 to:

Mancos Resources, Inc
36 West Main Street
Cortez, Co 81321

Redrock Forests
c/o Harold Shepherd
PO Box 290
Moab, UT 84532-0290

Tim Vetere
Box 404
Green River, UT 84525

Green River Canal Co.
c/o Dean King - President
PO Box 84
Green River, UT 84525

BY: 

Sonia Nava, Applications/Records Secretary