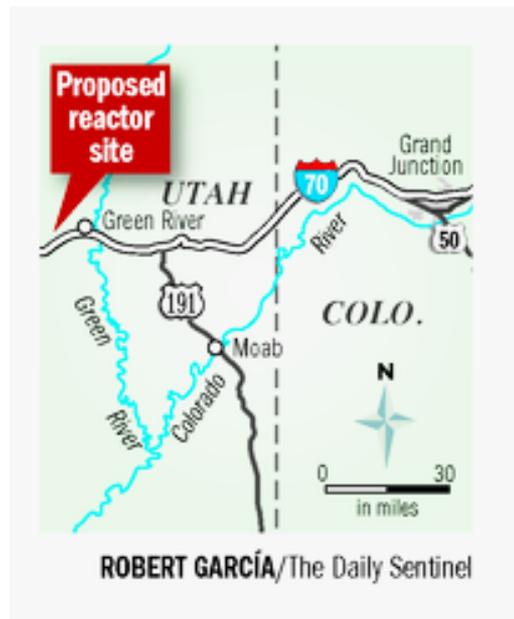


# Appeals court backs nuke plant water supply from Green River



[By Dennis Webb](#)

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Opponents of a proposed nuclear power plant near Green River, Utah, are considering whether to appeal to the state's high court after the state Court of Appeals upheld a district judge's ruling approving the plant's water supply.

A three-judge panel ruled last week in favor of Blue Castle Holdings, the project developer, and two water districts that are seeking changes to existing water rights so Blue Castle can withdraw 53,600 acre-feet a year from the Green River

for cooling and steam production at the proposed plant.

The conservation group HEAL Utah challenged the state water engineer's approval of the proposal, but that approval has now been upheld twice in court.

"In sum, HEAL Utah has not shown that the district court erred in concluding the change applications were filed in good faith and are not speculative or for monopoly of the water," the appeals court ruled.

HEAL Utah's challenge had been based partly on concerns about environmental impacts to the watershed, including to endangered fish.

Blue Castle CEO Aaron Tilton said in a news release, "We recognize our responsibility for strong environmental stewardship throughout the lifetime of the project, which includes working diligently to assure protection of the Green River environment and endangered species. Our project has been scrutinized at many levels, including the state engineer, the district court and now the appeals court. We have fully complied and satisfied all the requirements of the law. We can assure the public the high level of scrutiny that has been applied to the process is welcomed."

Matt Pacenza, HEAL Utah's executive director, said Monday that despite the setback, "we don't think the project is moving forward in any legitimately or significant way."

He said Blue Castle hasn't attracted interest from utilities for the power it would supply, nor, as far as HEAL Utah can tell, from investors. He said the company hadn't met with the

federal Nuclear Regulatory Commission since 2011.

“As I usually tell people, this project is somewhere between stalled and dead,” he said.

“Yes, they’re doing well in court, but that’s pretty much it.”

The appeals court said in its written ruling, “Despite the relatively early stage of the Project, the Applicants offered considerable evidence that the Project is feasible, including a detailed business plan, purchase contracts for land, lease agreements for the Districts’ water rights, and evidence that shows it has had discussions with eighteen utilities expressing an interest in the plant’s power.”

It added that while the project “is a risky venture” and hasn’t yet been licensed through the NRC, “the Applicants presented evidence that the Project is both physically and economically feasible.”

Blue Castle says it has begun the contractor selection process for some \$8 billion worth of construction work with an expected start date of 2020.

It projects that construction would require some 2,500 workers over some six or seven years, and the plant would employ about 1,000 people permanently. The 2,200-megawatt plant would increase Utah electricity generation by about 30 percent, the company says.

Gary Wockner, executive director of the group Save the Colorado, notes that the nuclear plant is just one of several proposed river diversion projects in the Upper Colorado River Basin. While the appeals court found the nuclear plant diversion to be lawful, “there’s no water left to take out of the river,” he said.

While 16.5 million acre-feet a year is allocated out the river between the Upper and Lower Basin states and Mexico, the river’s flow has averaged 13 million acre-feet over the last 16 years, with combined storage in Lake Powell and Lake Mead at the lowest point in history, he said.

“It’s kind of a simple situation where the law is one thing but water reality is different. The states are trying to operate under the law rather than water reality,” Wockner said.