

# Deseret News

## Judge upholds state engineer's decision on nuclear power plant water

By Amy Joi O'Donoghue , Deseret News  
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A district judge on Wednesday ruled that State Engineer Kent Jones exercised his authority within Utah law when he granted a change application for 53,600 acre-feet of water for a nuclear power plant. Environmental groups had challenged the decision. (Shutterstock)

SALT LAKE CITY — State Engineer Kent Jones rightfully applied Utah law when he approved the diversion of water from the Green River for use in a proposed nuclear power plant, a judge ruled Wednesday.

"We expected this to be the case. The state engineer obviously spent two years looking at it," said Aaron Tilton, whose company Blue Castle Holdings is proposing the twin-reactor plant in Emery County.

Tilton added that the judge rightfully weighed the merits of Jones' decision within the context of what state law dictates.

"You got to look at the totality of everything that we have done and the way the law was applied. If we interpreted the law the way HEAL Utah wanted, nobody's water rights would be approved," he said.

The decision was blasted by HEAL Utah and other environmental groups that contended Jones' decision was illegal because there was no demonstration by the company, Blue Castle Holdings, that the project is economically feasible or the water use is sustainable.

"It's baffling that this project continues to stumble forward," says HEAL Utah's policy director, Matt Pacenza.

But 7th District

Judge George Harmond said HEAL Utah and the other environmental groups failed to prove their case and there was no lawful basis to deny the water use.

He

specifically pointed to the ample flows of the Green River, which has never had to be regulated due to shortages and holds 369,000 acre-feet of water that is available for development.

Harmond's ruling noted that the additional depletion of the river required to cool the twin-reactor plant would represent just 1.22 percent of the mean average flow.

The judge, in the 26-page decision, said despite the challengers' claims, there is nothing in Utah law requiring Blue Castle to prove that the entire project will be economically

feasible by spending all the required money at this stage in the process.

The company plans to lease unused water owned by the Kane County and San Juan County water conservancy districts, which stand to make a financial windfall under the arrangement.

Tilton has said the next generation plant, at 3,000 megawatts, will have the installed capacity to generate 50 percent of Utah's power at a time when political and environmental pressure has ratcheted up on coal-fired power plants.

Harmond noted that Tilton's proposal is a viable one going into the future.

"Nuclear power is ideal for baseline power, produces no carbon or particulate emissions and does not result in visual pollution," he wrote. "Blue Castle is not required to have a [business plan](#) that is certain to succeed, but rather is only required to establish that the plan is economically feasible."

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