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DEPARTMENT OF NATURAL RESOURCES

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2009 AMENDED WATER RIGHTS POLICY REGARDING APPLICATIONS TO APPROPRIATE WATER AND CHANGE APPLICATIONS WHICH DIVERT WATER FROM THE GREEN RIVER BETWEEN FLAMING GORGE DAM AND THE DUCHESNE RIVER

**Public Meeting Announcement - August 20, 2009, 2:00 PM
Western Park Convention Center, 302 East 200 South, Vernal Utah 84078**

Salt Lake City, Utah -- In 1988, the State of Utah entered into a cooperative agreement with the Department of Interior, the Western Area Power Administration, and the states of Colorado and Wyoming. This agreement put in place the Recovery Implementation Program for Endangered Fish Species in the upper Colorado River Basin (RIP). The objective of the program is to recover the four endangered species of fish (the humpback chub, Colorado pikeminnow, razorback sucker and the bonytail) while at the same time allowing the states to develop their compact entitlement to the waters of the Colorado River and its Tributaries. On November 25, 1992 the U.S. Fish and Wildlife Service, after consultation with the Bureau of Reclamation, the Utah Division of Wildlife Resources, the Colorado Division of Wildlife and others, issued the final Biological Opinion for the operation of Flaming Gorge Reservoir. The opinion concluded that the continued operation of Flaming Gorge Dam, as in the past, was likely to jeopardize the existence of the endangered fish species. The opinion recommended stream flows in the Green River for each season. The reasonable and prudent alternative (RPA) section of the Biological Opinion identified the flows needed to produce a natural hydrograph and temperature regime in the Green River and how Flaming Gorge Dam should be operated to meet these objectives. To further define and clarify the process outlined, the Recovery Program the Recovery Implementation Program Recovery Action Plan (RIPRAP) was developed in 1993 and updated yearly.

In 1994 the State Engineer, after soliciting public input from stakeholders, adopted an Amended Policy to protect flows in the Green River from Flaming Gorge Dam downstream to the Duchesne River for the summer and autumn periods only. The Utah State Engineer examined alternative methods of flow protection, and concluded that the most appropriate alternative was the adoption of a policy that all new approvals be conditioned upon bypassing the required flows. Changes in Utah State Engineer Appropriation Policy did not affect existing water rights or approved applications but did impose limitations on either new applications to appropriate, or changes to existing water right applications. Considering Colorado Compact limitations, the physical availability of water and the opportunity for private land development, it appeared that adopting an appropriation policy to protect the flows released for the endangered fish species from Flaming Gorge to the Duchesne River would not unreasonably affect Utah's ability to utilize its Compact entitlement.

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Proposed Policy Amendment

The current Appropriation Policy of the State Engineer in the Upper Colorado River Basins is to allow small applications for one family, 1/4 acre of irrigation and up to 10 livestock units. It is opinion of the State Engineer that the public interest will further be served by adopting an additional Amended Policy to protect flows in the Green River from Flaming Gorge Dam downstream to the Duchesne River for the **Winter, Spring, Summer and Autumn** periods for the five different hydrological conditions, ranging from drought to flood stage, outlined in the Biological Opinion. To accomplish this, the State Engineer proposes the implementation of the following policy on September 21, 2009;

1. Approval of applications to appropriate water or change applications which transfer water rights into the affected reach, after September 21, 2009, will be conditioned upon bypassing those flows required for the endangered fish, as set forth in the Biological Opinion, except as provided for under paragraph 2.
2. To meet future critical water needs in the area, an additional amount of flow for diversion totaling up to 20 cfs year-round in the designated reach is set aside and not subject to this policy. Applications approved to utilize this twenty cfs will be administered according to their priority date, and will not be required to bypass flows for endangered fish.
3. All water rights established or applications approved prior to September 21, 2009 will not be subject to this policy. All water rights established between the signing of the original Policy on November 30, 1994 and the September 21, 2009 of this policy will be subject only to the stipulations of the 1994 Policy.
4. The State of Utah, in cooperation with Recovery Program participants, will meet each year to review projected release patterns from Flaming Gorge Dam. The State Engineer will distribute the waters of the Green River in accordance with the respective priority dates of the water rights, and pursuant to the criteria set forth in this policy, to protect the flow regimes, which are agreed upon at these meetings.
5. Measurements for the evaluation administration and protection of the flows for the endangered fish species, as stipulated in this document, will be at the Green River near Jensen gage (USGS station number 09261000).

There will be a public meeting to solicit comments on this Policy, August 20, 2009, 2:00 PM, at the Western Park Convention Center, 302 East 200 South, Vernal Utah. Please address any other questions or comments concerning this Proposed Policy Amendment, before September 14, 2009, to:

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