

Minutes for the Public Information Meeting concerning the Policy Changes Proposed for the Upper Green River to maintain minimum flows for Endangered Fish.

Western Park Convention Center  
Vernal, Utah  
August 20, 2009, 2:00 PM

## PRESENTATION AGENDA

Kent Jones, State Engineer, gave the welcome and an introduction welcoming the 30 attendees, recounting the public policy informational purpose of the meeting.

Matt Lindon, Assistant State Engineer, gave a Power Point presentation outlining the current Green River Policy and the history of the 1994 Water Rights policy change that conditioned subordinate Water Rights, between Flaming Gorge and the Duchesne river, to flows needed to maintain endangered species and their habitat. The results of the subsequent research, Flow Recommendations (2000) and Biological Opinion (2005) by the USFWS were presented. The State's current proposal to update the states policy to comply with these recommendations was outlined for 4 seasons and 5 hydrologic regimes, from Flaming Gorge to the Duchesne confluence. Subsequent Water Rights in this stretch of the Green River would be subordinate to the recommended fish flows except for 25 cfs for future growth and contingencies.

Paul Abate, USFWS gave a presentation on the Endangered Species Act (1973) and it's emphasis on habitat protection as well as the fish Recovery Implementation Program and Recovery Action Plan (RIPRAP) and the biology behind the recommendations. Non-native management as well as future research and monitoring elements of the program were explained. The regulatory support for the program was reviewed and the Biological Opinion was reviewed in detail.

Jana Mohrman, USFWS presented information on the hydrological and biological considerations for determining the recommended flows. She explained, in more detail, the magnitude, duration and timing of the flows necessary to maintain the fish and their habitat. She demonstrated with hydrographs how the fish flows have been met or exceeded, on an historical basis, in various stretches of the river.

Bob Leake, Regional Engineer, explained how the current policy is enforced on the Green River and emphasized the amount of 'natural' water moving through the system to satisfy the requirements of the Colorado River Compact. He spoke of the history, status and operation of Flaming Gorge storage water and Water Service Contracts. He explained how subordination of Water Rights would be determined and regulated.

## PUBLIC COMMENT, QUESTIONS AND INPUT

Scott Ruppe, UCWCD, commented that water rights should be conditioned to a particular Biological Opinion only (2005) and if the recommendations change than a new policy would be necessary. We should not be shooting at a moving target.

Randy Crozier, DCWCD, suggested that the contingency flow in the revised policy be increased from 25 cfs to 100 cfs for future growth and unknowns. Randy wondered how water right development in Colorado and Wyoming, such as the Shell and Million projects, would affect this project. He wondered if the proposed Water Service Contracts with the BOR would guarantee water right delivery on top of fish flows.

Wayne Cook, WAPA, questioned how one could regulate water rights to meet a range of minimum flows and how do water users know when their rights are or will be limited. He questioned why Flaming Gorge policy was decided in a BOR public meeting. He wondered that if the Biological Opinion changes because of biological uncertainty would the recommendations and restrictions change. He called for more adaptive management to adjust flows and wants a better definition of the minimum flows, targets and the definition of the hydrological circumstances of the 5 regimes that would trigger the subordinated and regulation.

There were three general questions on the Endangered Species Act, its relation to habitat, the BO and the proposed policy and if the fish recover did the flow recommendations go away?

Robert King, DWRe, commented that minimum flows at Jensen were historically lower than the recommended flows and that some flow minimums (800 cfs) were operational in nature to Flaming Gorge dam and not minimums for the fish. He agreed that specific flow targets were necessary and agreed to go back to the Management Committee and ask for clarification and definitions of minimum flow targets. He cautioned that to not take the ESA and Biological Opinion seriously could put the fish in jeopardy again and unleash a torrent of regulation similar to the situation on the Klamath River in Oregon and California.

JC Brewer questioned that if we were in fact in a 40-year drought or climate shift, would the fish flows be curtailed as well as the flows for water rights. It was explained that most Water Rights in the Uinta Basin have priority over the fish flows and that only new water moved to the main stem on the Green River would be subordinate. However during times of prolonged drought fish flows are subject to shortages, with all other Water Rights, and the emphasis would be complying with the Colorado River Compact call for delivery of 7.5 million acre feet to Lake Powell on a 10 year running average.

Written comments are due by Close-of-Business, September 10, 2009 at the Division of Water Rights, PO Box 146300, Salt Lake City, UT 84114-6300 or email them to [mattlindon@utah.gov](mailto:mattlindon@utah.gov)

Matt Lindon August 25, 2009