

September 21, 2009

Water Acquisition Committee
Draft Meeting Summary
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Participants: Matt Lindon, Bart Miller, Dan Luecke, Tom Ryan, Brent Rhees, Ann Gold, Dave Truman, Malcolm Wilson, Heather Patno, John Shields, Ray Tenney, Mike Roberts., Randy Seaholm, Tom Pitts, Michelle Garrison, Tom Chart, Jana Mohrman, and Angela Kantola.

Assignments are indicated in the document in bold, preceded by a “>”.

CONVENE 3:30 p.m.

The purpose for this call was to discuss protection of flows in the Green River. Public meetings on the proposed subordination are scheduled for next week in Price, Green River, and Moab.

1. The Green River is close to new appropriation, but fixed-time appropriations are still given. The Committee discussed the difference between a transferred claim (a water service contract to use Flaming Gorge water which maintains the priority date) and a change application (change of point of diversion, which can, but does not necessarily, retain the priority date). What would be junior to a fish flow subordination? Matt said that water service contracts would be released on top of fish flows from Flaming Gorge. Matt will find out which change applications would have the dates changed. Change applications or new appropriations would be subject to the subordination. Fixed-time applications are for one or several years, but not in perpetuity. Matt said that they’re considering adding to both subordinations the concept of protecting minimum flows, so we need to determine what those are (protecting a range of flows may be difficult). To protect some of the target water, Utah would look very closely at applications requiring winter or spring storage. And any change applications that might move water up the river would receive very close review (the more water rights moved upstream the less water is available for fish). Jana asked about the “no-injury rule”; this refers to the fact that when a water right is changed (point of diversion or use), that change cannot injure a junior.

2. Possible Process: annually Reclamation determines endangered fish flow targets for the Spring runoff period (has a larger variance and not trigger subordination) and Base flow periods (range between 900 and 3,000 cfs) that correspond to Reclamation’s determination of hydrologic category (Dry, Mod Dry, Average, Mod Wet and Wet). Reclamation would operate Flaming Gorge Dam to achieve those targets at the Jensen gage. The Committee discussed protecting minimum flows for dry years versus range of flows by hydrologic categories as outlined in the Green River flow and temperature recommendations. Matt said they haven’t figured out how they could regulate a range over different categories. Jana noted that the 1994 subordination discussed a range of flows. Matt said water users interested in moving Kane County water upstream is very interested in the proposed subordination (and opposed to anything that would interfere with moving that water).

Tom Ryan acknowledged that it will be a challenge to protect the higher flows (as opposed to the minimum) called for in the Biological Opinion associated with the Flaming Gorge Record of Decision. The RIPRAP calls for Utah to develop a mechanism to protect the Flaming Gorge flows, and we’ve assumed that subordination would be that mechanism. Matt agreed that Utah can’t appropriate water directly for fish, but they can limit other appropriations with the hope that the recommended fish flows can be met. Matt said he believes that in 1994 there were about 426 cfs that was senior to the 1994

subordination. Uintah and Duchesne counties both have rights they haven't used yet that they don't want to be subordinated to the fish flows. Matt asked that the Recovery Program make a strong presentation at the upcoming public meetings to explain the biological need for the fish flows and that other Program participants also speak up regarding the need for these flows and the benefits of the Recovery Program to Utah water users.

3. A study or model of the flows needed to cover the depletions in Reach 2, including the Green River between the Jensen gage and the confluence of the Duchesne River (new Ouray Bridge Doppler Gage). Estimate both the depletions that are senior and junior to the Subordination Policy(s). Matt agreed that this modeling needs to be done (showing different hydrologic cycles over a long time period). Utah would like to do this in-house, but hasn't made much progress to date. Dan Luecke said the environmental groups strongly support this modeling. Tom Chart asked Tom Ryan if Reclamation's Green River model might help the State with some of this modeling, but Matt said he doesn't think that model incorporates priority dates. Malcolm asked if the Colorado Decision Support System CDSS might be helpful and Randy said he thinks the structure of that model would be very applicable, as it's designed to look at Colorado water rights and priorities. Randy said they'd be happy to share the model logic, etc. with Utah.

4. Jensen gage minus what the State estimates for "covered depletions" is what we need to maintain at the new Ouray gage. If the flow at Ouray drops below annual target, this triggers the subordination. Jana asked about switching the point of measurement to the Ouray gage and discussing this at the public meetings. Matt noted that the original subordination agreement used the Jensen gage. However, the Duchesne water rights may be diverted between Jensen and Ouray. Jana noted that the Biological Opinion targets are at the Duchesne confluence, which is what the Ouray gage measures. Virtually all of the depletions in Reach 2 occur downstream of the Jensen gage, making the Ouray gage better able to represent flows and what we need to protect. Randy suggested that to avoid making too many changes at once, we might work on correlations between the Jensen and Ouray gages. The Ouray gage also has no period of record at this point.

5. Other Discussion. Public meetings – Matt said he thinks they want to revise the Reach 1 and Reach 2 policies before the Price, Green River, and Moab meetings and then will need to go back to Vernal for another public meeting with that change. Randy asked if the public has a good understanding of the importance of the Recovery Program to water use. Matt said he's not sure that the public is really hearing that. Angela suggested that more work may need to be done to explain to those opposed how the Recovery Program benefits water users. Jana and Tom Chart said that the Service is considering how to characterize the proposed subordination (a RIPRAP item) and associated dates in biological opinion(s) on Green River project(s) currently in consultation. Tom Pitts noted that the 15-Mile Reach PBO recognized that dates in the RIPRAP can change and advised a similar process in Green River BO's that cite the RIPRAP. >Tom Chart will check with Larry Crist on the proposed links to the RIPRAP in this opinion. Jana will include in her presentation the projects in Utah that have benefitted from the Recovery Program. Malcolm Wilson asked if we might want to start with some education/information for certain large water users. Matt thought that might be a good potential. Randy discussed the programmatic biological opinions done in Colorado that cover existing depletions and an increment of new depletions and provide for flows through a variety of recommendations (as well as other recovery actions) and wondered if something like a programmatic might be possible on the Green River. Angela Kantola suggested that Matt keep Mark Hadley (Utah's I&E Committee representative) informed about the public meetings and related public interactions on Green River flow protection. The Committee discussed who will attend the public meetings. Gene Shawcroft will be at

the Price meeting. Dan Luecke said the environmental groups will try to have someone at the meetings. Hopefully Robert King can be at the meetings, as well. John Shields suggested that perhaps Darin Bird could participate, as well. Randy Seaholm suggested also emphasizing the cost share in the Recovery Program and the fact that we couldn't have accomplished nearly as much individually as we have working together. The Committee scheduled another conference call after the public meetings.

Next call 8:00 a.m. on Monday, October 5.

ADJOURN 5:10 p.m.