

agreement to follow such a path. It is called the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin (RIP). The program objective is to recover the four endangered fish species while at the same time allowing the states to develop their water entitlements under the Law of the River. Integral to the RIP is the Recovery Implementation Program Recovery Action Plan (RAP), which outlines specific actions needed to protect the fish species. A significant RIPRAP action item is providing instream flows as a means of habitat management. Another action item allows proponents of a water development project to pay a fee per unit of water withdrawn for expenditure by FWS to fund the recovery program. Utah has spent millions of dollars in furtherance of the goals of this program, and progress towards species recovery has been made, although a significant work remains to be accomplished. One matter of unfinished business is the establishment and protection of instream flows for the fishes in the mainstems of the Green, Colorado, and San Juan Rivers and certain of their tributaries.

After holding public meetings to gather input, in accords reached subsequent to the RIPRAP your predecessors agreed, as part of the recovery program, to establish some constraints on Green River flows. This is critical because the Green River has been designated as critical habitat for the four endangered fishes. One such agreement says: "...the public interest will be best served by adopting a policy to protect flows in the Green River from Flaming Gorge Dam downstream to the confluence of the Green River and Duchesne River for the summer and autumn periods" to protect endangered fish habitat. FWS saw this initial action as one that would be followed by additional flow designations. I know you have discussions underway to follow up in this regard, establishing year-round flows. Requests for consumptive use of Green River water should be analyzed with these discussions, and the need for continued ESA compliance, in mind. Otherwise, Utah's use of its Colorado River water could be jeopardized – not just future use, but existing uses as well.

I know this background is old hat to you, but I am not as sure other interested parties understand this history. And, I question whether such parties are aware of current developments related to Green River flows.

For example, the seven Colorado River Basin States and the Bureau of Reclamation have almost completed an agreement for a two-year study in the Colorado River Basin which will analyze basin supply and future demands, including environmental flows, and identify areas of shortage, both temporal and spatial, while investigating options to address such shortages. This analysis will include updating model studies to include water needed for ESA compliance and responding to recent drought hydrology. This study will likely develop a model that will allow a more detailed understanding and analysis of Green River ESA compliance. This will allow Utah to better address the impacts of future depletions on the Colorado River in Utah, and in particular, implications on the Green River.

RECEIVED
JAN 07 2010
WATER RIGHTS
SALT LAKE