

use will be verified. If it is less than the volume of water approved, the water right will be reduced to the maximum diversion figure.

Their assertions that your diversion will interfere with endangered species, in-stream flows, present and future, water quality issues and further exacerbated the effects of climate change is purely speculative and unfounded. They offer no evidence to substantiate their claims. Agencies that have jurisdiction over these and other issues will have an opportunity to address their concerns through this or other permits that will be required. They also raise the Wayne County water right as a problem for surface and ground water issues. As with many of their other comments, this application has little or no bearing on this application. I suppose they could claim the cumulative effect of recent approvals of water rights in the same general area. However; as you know the ground water part of the Wayne County application is in the Hanksville area. In paragraph 13 they site two cases from Colorado Courts. These may not be relevant because of the differing laws in Colorado and Utah.

This being said, I do not foresee any issues that should cause you any serious concern with the processing of the application. As I stated earlier, the State Engineer will process the application, including a hearing because of the request of the Green River Canal Company. They will allow the protestant's to share their feelings but will not spend time with the unfounded allegations and unsupported speculative comments.

The hearing will be informal. The hearing officer will read the application into the audio record that will be kept. You will then have the opportunity to discuss the purpose of the application. The protestant's will have the opportunity to ask you questions about the application for clarification purposes. At the conclusion of your brief presentation and question period each of the protestant's will have the opportunity to discuss their protests to which you can ask questions for clarification purposes. The final word is yours if you wish to make a concluding statement in behalf of the application.

A decision will not be made at the hearing. They will review all information presented in the written protests and provided at the hearing under advisement and issue the decision at a later date. I think it will take probably another 3 to 6 months for the decision to be finalized. Following receipt of the Order of the State Engineer, all parties have 20 days to request reconsideration of the decision if they feel the State Engineer did not duly address all of the issues presented in the protests and at the hearing; that with proper consideration may have resulted in a different decision. This may or may not be granted. The decision can also be appealed to the District Court within 30 days of the decision for judicial review.

I hope this information is helpful. If you have any questions about any specific issue or the other protests, please feel free to contact me at your convenience.

Sincerely,

Mark P. Page
Water Right Consultant