

On Reservation Instream Flows Status of Instream Flow Development for Inclusion in CSKT Water Rights Compact

June 27 Public Meeting, Polson

Instream Flows

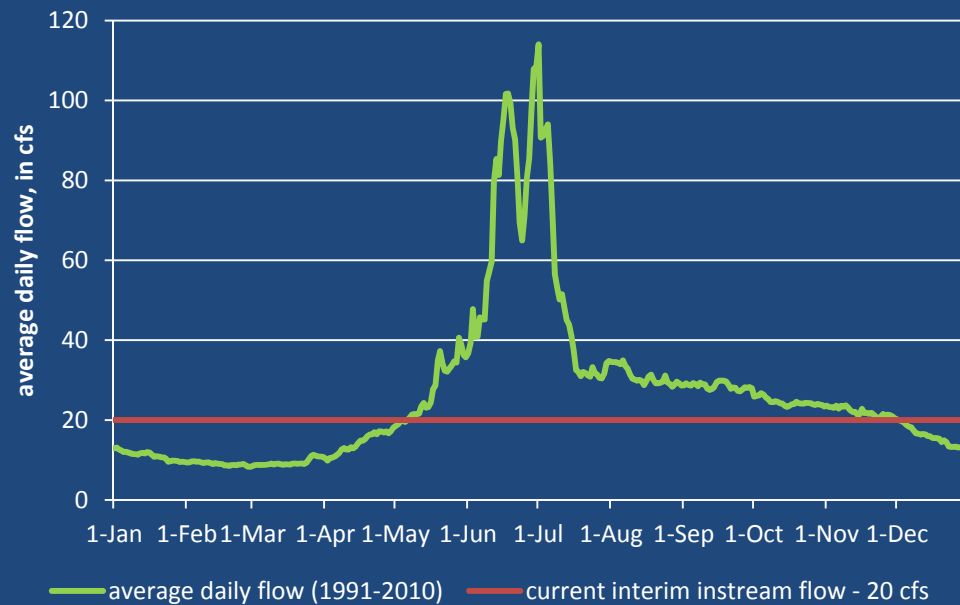
- Part of the Tribal Water Right with a fish and wildlife purpose and a time immemorial priority date
- Non consumptive water right intended to preserve flow in streams of sufficient magnitude and seasonal variability to protect: a) the Tribes Treaty rights; b) existing stream and floodplain ecology; and c) existing stream and floodplain ecologic conditions over time

The Tribes instream flow rights are founded in the Treaty of Hellgate which reserves the right to take fish in all streams running through or bordering the Reservation, as well as the right to take fish in all usual and accustomed places. The ability to exercise this right is prefaced on water in a stream of sufficient quantity to sustain a fishery resource

On Reservation Instream Flows *cont*^d

Interim instream flows have been in-place at 27 locations, on streams influenced by the Federal Irrigation Project (FIIP), since the late 1980's

- Little Bitterroot Valley
- Mission Valley
- Jocko Valley

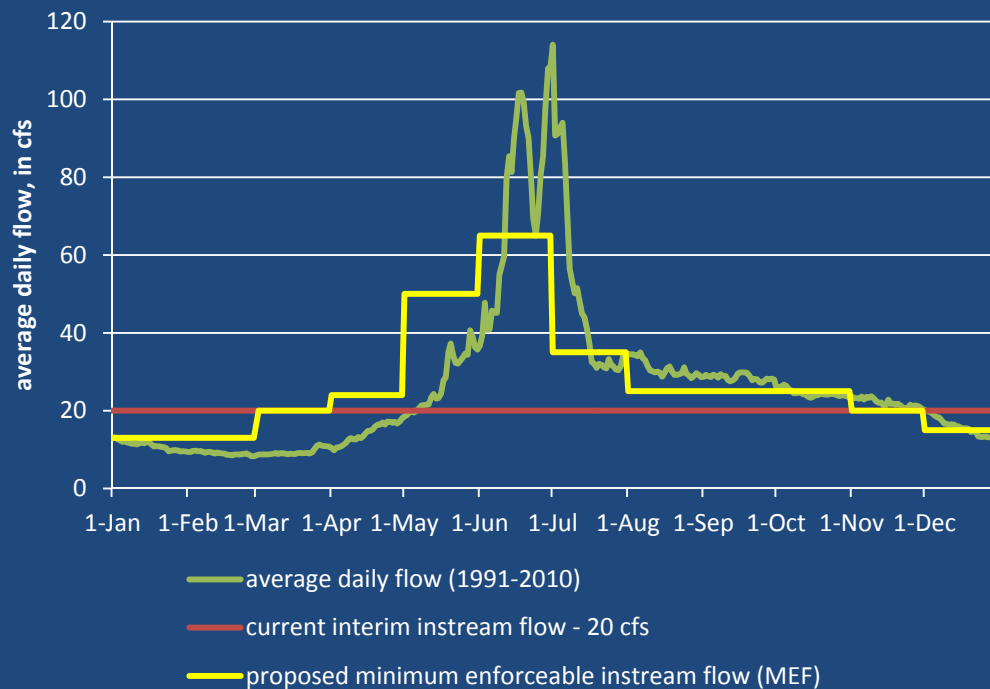


Interim instream flows are single level flows (flat line) intended to be met unless natural flow goes below the interim instream flow level

Hydrograph for Mission Creek at Highway 93

On Reservation Instream Flows *cont^d*

Proposed instream flows incorporate seasonal variability into each of the components of the proposed Tribal instream flows



Proposed instream flows are set to specific monthly values, but drop to natural flow when it is lower than the proposed instream flow

Hydrograph for Mission Creek at Highway 93

On Reservation Instream Flows *cont*^d

General Structure of the Tribal Instream Flow Water Right

1. Natural Instream Flow Nodes

- Defined as part of the Tribal Water Right in the Compact
- Water right abstracts, describing the water right, will be prepared for each location; these will be appended to the Compact

2. FIIP Instream Flow Nodes

- Defined as part of the Tribal Water Right in the Compact
- Water right abstracts, describing the water right, will be prepared for each location; these will be appended to the Compact
- Implementation of the FIIP instream flows is described in the Stipulation Agreement regarding the federal irrigation project
- Parts of the recording and implementation of the FIIP instream flows described in the Unitary Administrative Ordinance

3. Other Instream Flow Nodes

- Defined as part of the Tribal Water Right in the Compact
- Water right abstracts, describing the right, will be prepared for each location; these will be appended to the Compact
- Implementation of the non-FIIP Instream flow nodes described in the Unitary Administrative Ordinance

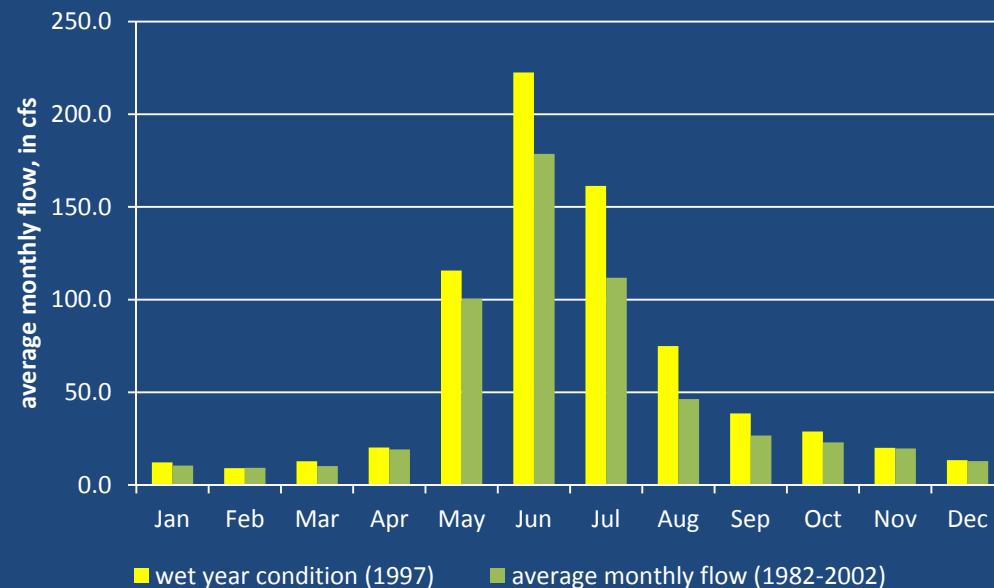
On Reservation Instream Flows *Natural Flow Locations*

Natural Node Instream Flows

- 102 instream flow locations
- Instream flow protections are generally located in headwater streams above existing water uses and diversions
- Where there are water rights that arise under state law above the natural node instream flow points, they are protected from call by specifically noting the water right in the abstract (~ six locations)
- The natural node instream flows are intended to be protective of the stream reach and watershed area above the node (point)
- Implementation/Enforcement of the Natural Node Instream Flows
 - Very little existing use above Natural Node Instream Flows
 - Large percentage of the land above these points is in Tribal Ownership
 - Perceive these points as protective of headwater stream flows, requiring limited action to implement and/or enforce

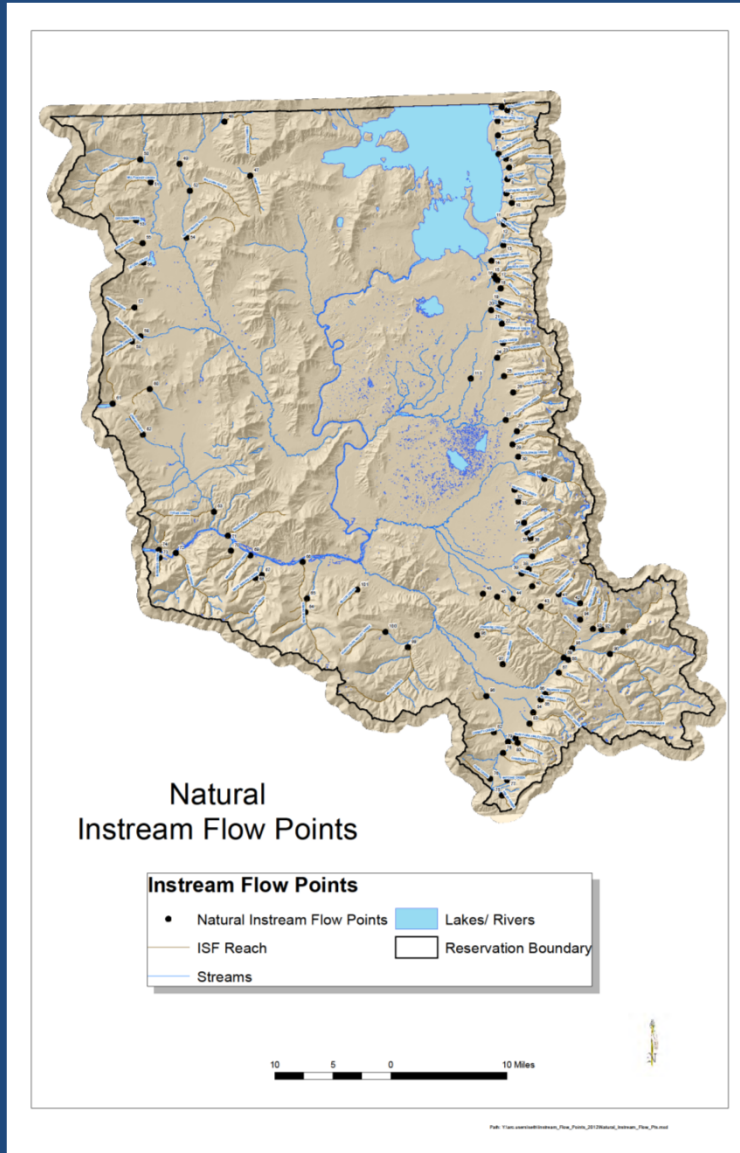
On Reservation Instream Flows *Natural Flow Locations cont^d*

Natural flow instream flows are based on wet year conditions for the period used for analysis



Mission Creek above Mission Reservoir – proposed natural flow instream flow based on wet year condition = yellow bars

On Reservation Instream Flows *Natural Flow Locations cont^d*

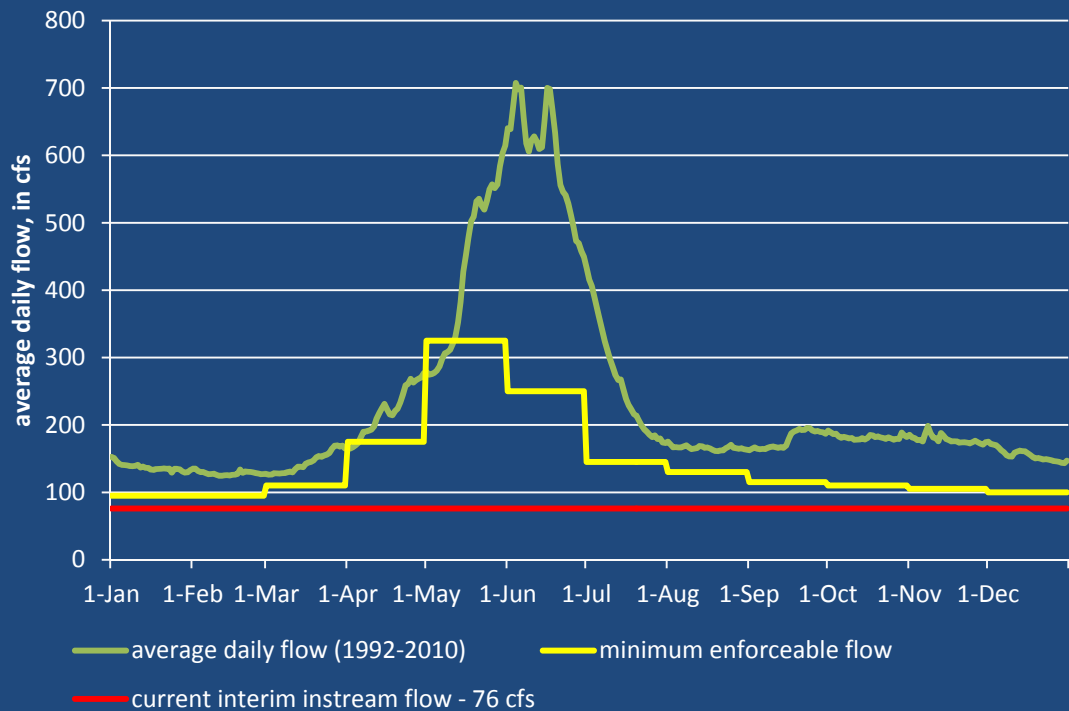


On Reservation Instream Flows *FIIP Instream Flow Locations*

- 33 instream flow locations
- Locations are generally placed at intersection of stream and irrigation project diversions, most locations are at or near existing interim instream flow points
- FIIP instream flow nodes extend instream flow protections to a defined reach of stream
- Components of the FIIP instream flows
 - Minimum enforceable instream flows – (MEF)
 - Target instream flows for wet and normal years – (TIF)
- MEF values met in all years following a deferral period for implementation of improvements to the irrigation project
- TIF values met in corresponding normal and wet years after irrigation allocation met and following a deferral period for implementation of improvements to the irrigation project
- For both MEF and TIF, incremental increases in flow are anticipated prior to full deferral period as improvements occur

On Reservation Instream Flows *FIIP Instream Flow Locations cont^d*

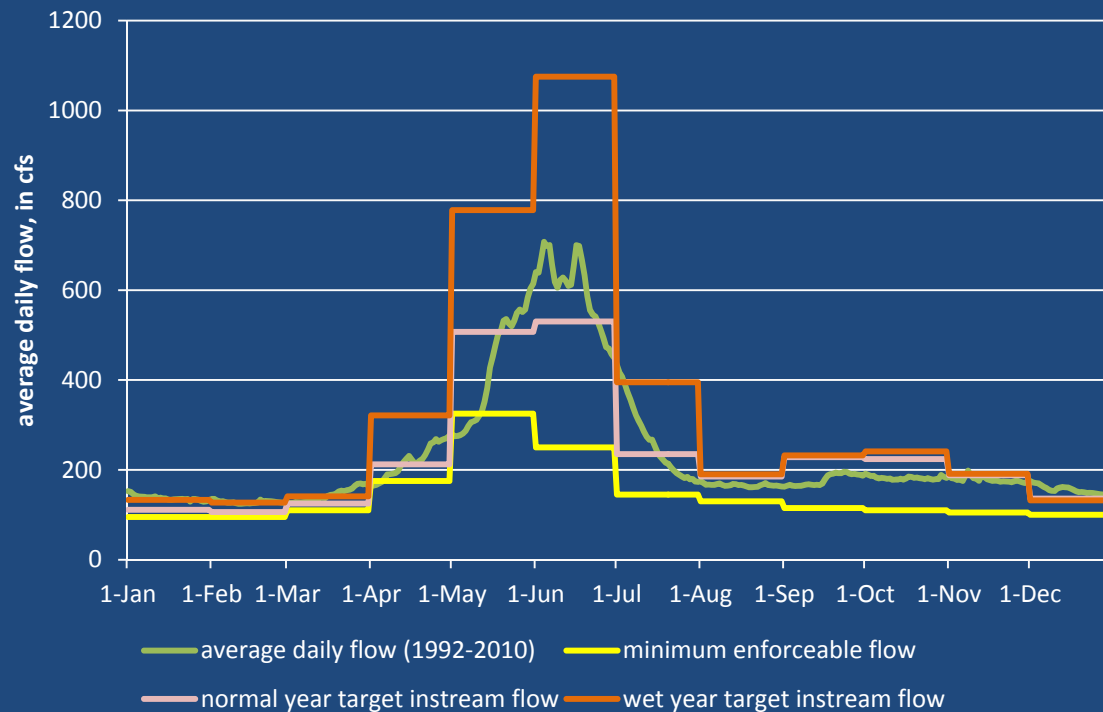
Hydrograph Type	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
MEF	95	95	110	175	325	250	145	130	115	110	105	100
Normal Year	111	106	125	212	507	530	235	185	228	224	188	136
Wet Year	133	127	141	321	778	1,075	395	190	232	241	191	132
Water Right	133	127	141	321	778	1,075	395	190	232	241	191	136



Jocko River below Lower Jocko J Canal above mouth, all in cfs

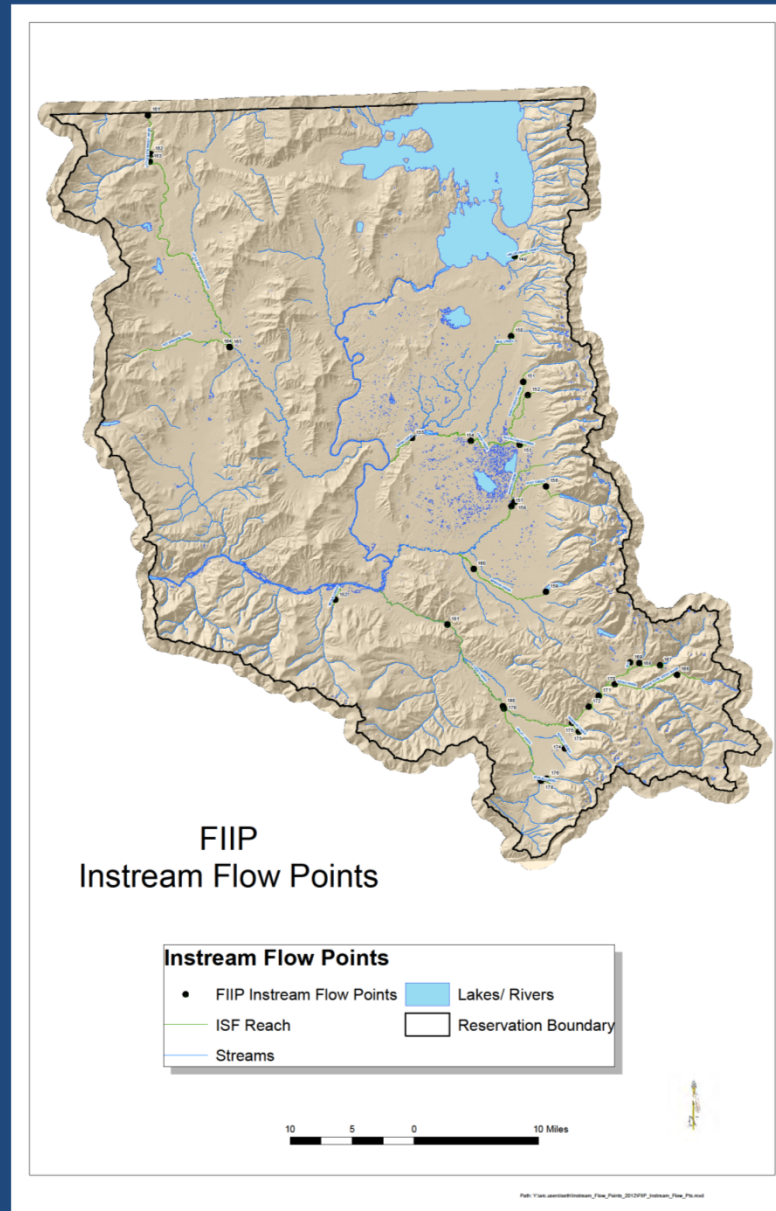
On Reservation Instream Flows *FIIP Instream Flow Locations cont^d*

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On Reservation Instream Flows *FIIP Instream Flow Locations cont^d*



On Reservation Instream Flows *FIIP Instream Flow Locations cont^d*

Implementation/Enforcement of the FIIP Instream Flows

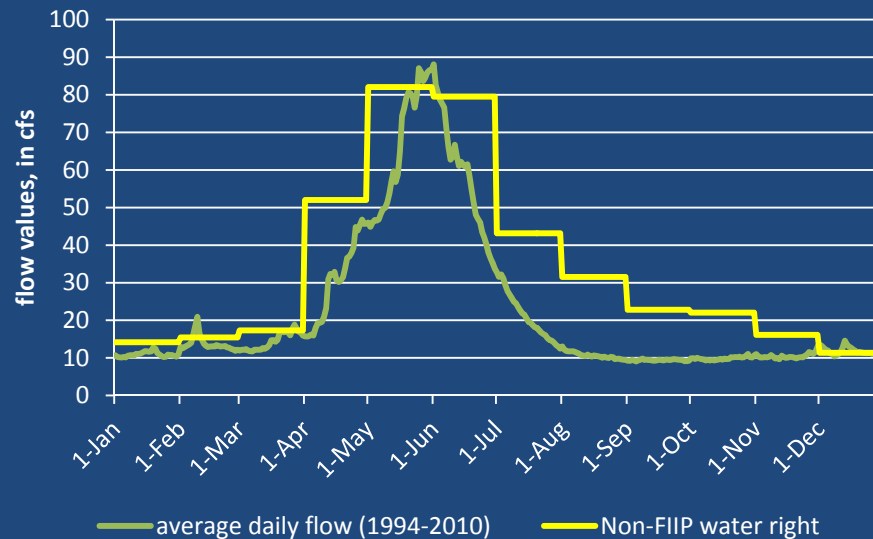
- Enforcement of the current interim instream flows will be maintained until new minimum enforceable instream flows are met
- Minimum instream flows (MEF values) will be enforced for stream reaches following a deferral period to allow for both operational and rehabilitation and betterment improvements
- Target normal and wet year instream flows will be managed for based on individual water year conditions
- Enforcement of MEF values, and management to TIF values, will require full coordination with the operator of the irrigation project

On Reservation Instream Flows *Other Instream Flow Locations* cont^d

- 49 instream flow locations
- Locations are generally placed downstream of diversions/private canals that are not part of the FIIP infrastructure and that serve water rights arising under state law
- The Compact and appended water rights abstracts will define the seasonal instream flow water right values for the Non-FIIP category of the Tribal instream flows
- The Unitary Administrative Ordinance will define the procedure to implement the Non-FIIP instream flow water right
- Generally –
 - a) Implementation follows Montana Water Court Decree Process
 - b) Areas to implement follow a Tribal priority scheme
 - c) Process will involve some form of public notice/engagement for affected water rights
 - d) The enforceable Non-FIIP instream flows will be based on objective hydrologic evaluation of area hydrology and valid water rights

On Reservation Instream Flows *Other Instream Flow Locations* cont^d

Water right for Non-FIIP instream flows based on wet year conditions



Valley Creek above the mouth

Enforceable instream flow values based on procedure to be outlined in Unitary Administrative Ordinance

On Reservation Instream Flows *Other Instream Flow Locations* cont^d

