

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO:	Colorado Water Conservation Board Members	Bill Ritter, Jr. Governor
FROM:	Jeff Baessler Stream and Lake Protection Section	Harris D. Sherman DNR Executive Director
DATE:	January 19, 2008	Jennifer L. Gimbel CWCB Director
SUBJECT:	Agenda Item 5, January 27-28, 2009, Board Meeting Stream and Lake Protection Section – New Appropriation Recommendations in Water Divisions 2, 4, 5, and 6	Dan McAuliffe CWCB Deputy Director

Summary

This memo outlines the history of ISF recommendations identified for appropriation in 2009 and provides an overview of the technical analyses that were performed by both the recommending entities and staff to provide the Board with sufficient information to declare its intent to appropriate in accordance with the Instream Flow Rules. Staff's detailed analysis of each stream contained in the "Instream Flow Recommendation Notebook", which was mailed separately, provides the technical basis for each appropriation.

Staff recommends that the Board declare its intent to appropriate 22 new instream flow water rights in Water Divisions 2, 4, 5 and 6 as identified in the attached tables.

Background

Pursuant to Rule 5d. of the Board's Instream Flow Rules, staff is requesting the Board to declare its intent to appropriate instream flow water rights on the stream segments identified in the attached tables. Staff has reviewed each proposed stream segment to ensure that for each flow recommendation, the data set is complete and standard methods and procedures were followed. In addition, staff has completed its water availability studies. Staff has identified 22 stream segments in Water Divisions 2, 4, 5 and 6 for which sufficient information has been compiled and analyses performed upon which the Board can base its intent to appropriate. These segments are located in Chaffee, Grand, Gunnison, Hinsdale, Huerfano, Lake, Las Animas, Mesa, Montrose, and Routt Counties.

It should be noted that although 37 recommendations either were received at the February 2008 workshop, or were carryover recommendations from previous years, only the attached 22 recommendations are being moved forward by staff at this time. Staff has been unable to move forward on the remaining streams because additional stakeholder discourse and/or additional data collection and analysis are required. The following table identifies the streams that will be brought back to the Board at a future date.

5d. Board's Intent to Appropriate. Notice of the Board's potential action to declare its intent to appropriate shall be given in the January Board meeting agenda and the Board will take public comment regarding its intent to appropriate at the January meeting.

- (1) After reviewing Staff's ISF recommendations for proposed ISF appropriations, the Board may declare its intent to appropriate specific ISF water rights. At that time, the Board shall direct the Staff to publicly notice the Board's declaration of its intent to appropriate.
- (2) After the Board declares its intent to appropriate, notice shall be published in a mailing to the ISF Subscription Mailing Lists for the relevant water divisions and shall include:
 - (a) A description of the appropriation (e.g. stream reach, lake location, amounts, etc.);
 - (b) Availability (time and place) for review of Summary Reports and Investigations Files for each recommendation; and,
 - (c) Summary identification of any data, exhibits, testimony or other information in addition to the Summary Reports and Investigations Files supporting the appropriation.
- (3) Published notice shall also contain the following information:
 - (a) The Board may change flow amounts of contested ISF appropriations based on information received during the public notice and comment period.
 - (b) Staff will maintain, pursuant to Rule 5e.(3), an ISF Subscription Mailing List for each water division composed of the names of all persons who have sent notice to the Board Office that they wish to be included on such list for a particular water division. Any person desiring to be on the ISF Subscription Mailing List(s) must send notice to the Board Office.
 - (c) Any meetings held between Staff and members of the public will be open to the public. Staff may provide Proper Notice prior to any such meetings and may provide notice to persons on the ISF Subscription Mailing List(s).
 - (d) Any Notice to Contest must be received at the Board office no later than March 31st, or the first business day thereafter. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than April 30th, or the first business day thereafter.
 - (e) Staff will announce its Final Staff ISF Recommendation concerning contested appropriations at the September Board meeting and will send notice of the Final Staff Recommendation to all persons on the Contested Hearing Mailing List.
 - (f) The Board may take final action on any uncontested ISF appropriations at the May Board meeting.
- (4) After the Board declares its intent to appropriate, notice of the Board's action shall be mailed within five working days to the County Commissioners of the county(ies) in which the proposed reach or lake is located.

Staff Recommendation

Staff recommends that, pursuant to Rule 5d., the Board declare its intent to appropriate an ISF water right on each stream segment listed on the attached Tabulations of Instream Flow and Natural Lake Level Recommendations, and direct Staff to publicly notice the Board's declaration of its intent to appropriate.

Attachments

Division	Stream Name	County (ies)	Recommender(s)
1	Coal Creek	Boulder	City of Louisville, CDOW
2	Gibson Creek	Custer	CDOW
4	Big Dominguez Creek	Delta & Mesa	CDOW, BLM
4	Little Dominguez Creek		
4	San Miguel River	Montrose	BLM, CDOW
5	Eagle River (ISF Increase)	Eagle	Town of Minturn, CDOW
5	Colorado River	Eagle	Eagle County Board of County Commissioners
6	Moeller Creek	Rio Blanco	CDOW
6	South Fork Slater Creek	Routt, Moffat	CDOW, TU
6	West Prong South Fork Slater Creek		
6	Indian Creek	Jackson	BLM
6	North Fork North Platte River	Jackson	BLM
6	South Fork Big Creek	Jackson	BLM
6	Piceance Creek	Rio Blanco	BLM, CDOW
6	Yellow Creek	Rio Blanco	BLM, CDOW

Technical Investigations

Staff's executive summary and technical analysis of each stream, contained in the Instream Flow Recommendation Notebook (mailed separately), forms the basis for staff's recommendations.

Natural Environment Studies

The Bureau of Land Management (BLM), Colorado Division of Wildlife (CDOW), and Trout Unlimited (TU) have conducted field surveys of the natural environment resources on these streams and have found natural environments that can be preserved. To quantify the resources and to evaluate instream flow requirements, the recommending entities have collected biologic and hydraulic data that were analyzed by CWC staff. Based on the results of these analyses, staff prepared recommendations of the amount of water necessary to preserve the natural environment to a reasonable degree for each of the streams listed on the attached Tabulations of Instream Flow and Natural Lake Level Recommendations.

Water Availability Studies

Staff has conducted an evaluation of water availability for the streams listed. To determine the amount of water physically available for the Board's appropriations, staff analyzed available USGS gage records, available streamflow models, and/or utilized appropriate standard methods to develop a hydrograph of mean daily flows for each stream flow recommendation. Staff also relied upon the flow measurements made as part of the field survey as an indicator of the amount of water physically available in each stream; analyzed the water rights tabulation for each stream; and has consulted with the Division Engineer's Office to identify any potential water availability problems. Based upon its analyses, staff has determined that water is available for appropriation on each stream to preserve the natural environment to a reasonable degree without limiting or foreclosing the exercise of valid water rights.

Instream Flow Rule 5d.

Rule 5d. provides that the Board may declare its intent to appropriate ISF water rights after reviewing Staff's recommendations for the proposed appropriations. Rule 5d. also sets forth the activities that take place after the Board declares its intent that initiate the public notice and comment procedure for the ISF appropriations. Specifically,



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Instream Flow Tabulation - Streams



Water Division 2

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
08/2/A-003	Cucharas Creek	Alamosa-Trinchera	Huerfano	headwaters in the vicinity of lat 37 17 47N long 105 9 28W	State Highway 12 at lat 37 19 54N long 105 5 48W	5.30	Cucharas Reservoir Trinchera Peak	1.6 (4/1 - 5/14) 4.9 (5/15 - 6/30) 1.6 (7/1 - 9/15) 1.2 (9/16 - 3/31)	
09/2/A-003	Huerfano River	Huerfano	Huerfano	outlet of Lilly Lake at lat 37 35 40N long 105 29 22W	confl Central Branch Huerfano Crk at lat 37 40 16N long 105 25 16W	8.20	Mosca Pass	2.7 (11/1 - 4/30) 4.1 (5/1 - 10/31)	
09/2/A-004	Huerfano River	Huerfano	Huerfano	confl. w/ unnamed tributary at lat 37 41 2N long 105 24 9W	confl. w/ Stanely Creek at lat 37 42 33N long 105 22 16W	2.60	Mosca Pass Red Wing	2.75 (11/1 - 3/31) 5.75 (4/1 - 10/31)	
09/2/A-001	Maxwell Creek	Arkansas headwaters	Chaffee	headwaters in the vicinity of lat 38 45 11N long 106 14 55W	hdgt. O.W. Friskey Ditch at lat 38 46 26N long 106 11 2W	4.00	Buena Vista West	1 (10/01 - 10/31) 0.4 (11/01 - 5/31) 3.3 (6/1 - 7/31) 1.5 (8/01 - 9/30)	
08/2/A-001	Purgatoire River	Purgatoire	Las Animas	confl M/N Fork Purgatoire River at lat 37 9 26N long 104 56 27W	confl Lopez Canyon at lat 37 8 25N long 104 52 45W	4.80	Vigil	7 (12/1 - 4/14) 8.4 (4/15 - 5/14) 21 (5/15 - 8/15) 15 (8/16 - 9/15) 8.4 (9/16 - 11/30)	

Instream Flow Tabulation - Water Division 2

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
09/2/A-005	Rock Creek	Arkansas headwaters	Lake	outlet of Native Lake at lat 39 13 27N long 106 27 31W	confl. w/ Willow Creek at lat 39 12 40N long 106 22 49W	5.00	Mount Massive	1.7 (11/1 - 5/14) 11 (5/15 - 8/31) 5 (9/1 - 10/31)	
08/2/A-002	South Fork Purgatoire River	Purgatoire	Las Animas	confl with Unnameed Tributary at lat 37 03 49N long 104 58 60W	confl with Torres Canyon at lat 37 5 40N long 104 52 47W	8.20	Tercio	3 (10/16 - 4/30) 9.6 (5/1 - 5/31) 18 (6/1 - 6/30) 13 (7/1 - 8/15) 5 (8/16 - 10/15)	

Totals for Water Division 2	Total # of Stream Miles =	38.1
	Total # of Appropriations =	7
	<i>(Totals do not include donated/acquired water rights)</i>	
Report Totals	Total # of Stream Miles =	38.1
	Total # of Appropriations	7
	<i>(Totals do not include donated/acquired water rights)</i>	



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Instream Flow Tabulation - Streams



Water Division 4

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
09/4/A-005 (increase)	Bent Creek	Upper Gunnison	Hinsdale	headwaters in the vicinity of lat 37 56 23N long 107 24 31W	confl. Lake Fork Gunnison River at lat 37 54 22N long 107 22 46W	3.00	Redcloud Peak	1.55 (4/1 - 10/31)	
09/4/A-001	Clear Fork East Muddy Creek	North Fork Gunnison	Gunnison	headwaters in the vicinity of lat 39 15 12N long 107 25 37W	Forest Service Bounday at lat 39 8 45N long 107 26 10W	9.10	Elk Knob Quaker Mesa	13 (4/1 - 8/15) 5 (8/16 - 3/31)	
09/4/A-002 (increase)	East Elk Creek	Upper Gunnison	Gunnison	confl. w/ Bear Wallow Gulch at lat 38 32 42N long 107 10 13W	confl. w/ Blue Mesa Reservoir at lat 38 28 58N long 107 10 20W	4.50	Carpenter Ridge West Elk Peak SW	0.7 (4/1 - 10/31)	
09/4/A-006	Grizzly Gulch	Upper Gunnison	Hinsdale	outlet of Grizzly Lake at lat 37 55 7N long 107 28 58W	confl. Lake Fork Gunnison River at lat 37 56 6N long 107 27 35W	2.10	Redcloud Peak	2.9 (4/15 - 9/15) 0.6 (9/16 - 4/14)	
09/4/A-007 (increase)	Henson Creek	Upper Gunnison	Hinsdale	conf. North Fork of Henson Creek at lat 38 0 25N long 107 27 33W	confl. Nellie Creek at lat 38 1 13N long 107 24 4W	3.40	Uncompahgre Peak	11 (4/1 - 10/31)	
09/4/A-004	Little Spring Creek	North Fork Gunnison	Gunnison	Cyrstal Springs at lat 39 1 1N long 107 19 47W	Inlet of Ragged Res. #1 at lat 39 1 55N long 107 20 4W	0.40	Chair Mountain	1.25 (1/1 - 12/31)	
09/4/A-012	Little Spring Creek	North Fork Gunnison	Gunnison	outlet of Ragged Res #1 at lat 39 1 53N long 10 20 11W	Crystal Ditch hdgt lat 39 1 34N long 107 20 40W	0.70	Chair Mountain	1.25 (1/1 - 12/31)	
09/4/A-008 (increase)	Schafer Gulch	Upper Gunnison	Hinsdale	headwaters in the vicinity of lat 37 57 16N long 107 32 52W	confl. Henson Creek at lat 37 58 34N long 107 32 28W	1.70	Handies Peak	1.3 (4/1 - 10/31)	

Instream Flow Tabulation - Water Division 4

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
09/4/A-010	Tabeguache Creek	San Miguel	Montrose	conf. Fortyseven Creek at lat 38 22 10N long 108 31 5W	confl. San Miguel River at lat 38 21 26N long 108 42 42W	5.40	Nucla Uravan	1.6 (12/1 - 3/14) 4.75 (3/15 - 6/30) 1.9 (7/1 - 11/30)	
09/4/A-011	Tabeguache Creek	San Miguel	Montrose	hdgt of Templeton Ditch at lat 38 21 42N long 108 35 25W	confl with San Miguel River at lat 38 21 26N long 108 42 43W	9.70	Nucla Uravan	4.75 (3/15 - 6/30)	

Totals for Water Division 4	Total # of Stream Miles =	40
	Total # of Appropriations =	10
<i>(Totals do not include donated/acquired water rights)</i>		
Report Totals	Total # of Stream Miles =	40
	Total # of Appropriations =	10
<i>(Totals do not include donated/acquired water rights)</i>		



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Instream Flow Tabulation - Streams



Water Division 5

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
09/5/A-002	Buzzard Creek	Colorado Headwaters-Plateau	Mesa	confl. Willow Creek at lat 39 11 41N long 107 37 24W	confl. Owens Creek at lat 39 14 7N long 107 37 58W	3.40	Porter Mountain Spruce Mountain	4.25 (4/1 - 8/31) 1.5 (9/1 - 3/31)	
08/5/A-013 (increase)	Corral Creek	Colorado headwaters	Grand	confl Smith Creek at lat 40 5 57N long 106 11 8W	hdgt of Home # 1 Ditch lat 40 3 55N long 106 11 8W	2.75	Parshall	0.9 (11/1 - 3/31) 2.75 (4/1 - 10/31)	
08/5/A-009	Troublesome Creek	Colorado headwaters	Grand	confl with Glomerate Creek at lat 40 17 9N long 106 17 51W	confl with Rabbit Ears Creek at lat 40 15 46N long 106 19 6W	3.00	Hyannis Peak	2.8 (11/1 - 3/31) 5.1 (4/1 - 10/31)	
08/5/A-010	Troublesome Creek	Colorado headwaters	Grand	confl with Rabbit Ears Creek at lat 40 15 46N long 106 19 7W	hdgt Pickering Ditch at lat 40 13 37N long 106 18 50W	3.00	Hyannis Peak	5.9 (11/1 - 3/31) 9.3 (4/1 - 10/31)	

Totals for Water Division 5	Total # of Stream Miles =	12.15
	Total # of Appropriations =	4
<i>(Totals do not include donated/acquired water rights)</i>		

Report Totals	Total # of Stream Miles =	12.15
	Total # of Appropriations =	4
<i>(Totals do not include donated/acquired water rights)</i>		



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Instream Flow Tabulation - Streams



Water Division 6

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
09/6/A-002	Grizzly Creek	Little Snake	Routt	confl. of two unnamed tributaries at lat 40 46 56N long 107 12 55W	Forest Service Boundary at lat 40 49 59N long 107 13 45W	2.90	Bears Ears Peaks	35 (1/1 - 12/31)	

Totals for Water Division 6	Total # of Stream Miles =	2.9
	Total # of Appropriations =	1
	<i>(Totals do not include donated/acquired water rights)</i>	

Report Totals	Total # of Stream Miles =	2.9
	Total # of Appropriations =	1
	<i>(Totals do not include donated/acquired water rights)</i>	