

# STATE OF COLORADO

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## Colorado Water Conservation Board

### Department of Natural Resources

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<b>TO:</b>	Colorado Water Conservation Board Members	Bill Ritter, Jr. Governor
<b>FROM:</b>	Jeff Baessler Stream and Lake Protection Section	Harris D. Sherman DNR Executive Director
<b>DATE:</b>	September 4, 2009	Jennifer L. Gimbel CWCB Director
<b>SUBJECT:</b>	<b>Agenda Item 23, September 15-16, 2009, Board Meeting</b> <b>Stream and Lake Protection Section – Instream Flow Recommendations on</b> <b>Morrison Creek in Water Division 6</b>	Dan McAuliffe CWCB Deputy Director

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### Background

This agenda item provides an opportunity for stakeholders to present the Board with public comment on the proposed Morrison Creek Instream Flow water right recommendations as proposed by the Colorado Division of Wildlife, James Larson, Dequine Family, LLC., and Flying Diamond Resources.

### Discussion

Staff received instream flow recommendations for two segments on Morrison Creek in Water Division 6 at its February 2009 workshop. The attached database table and map identify the flow amounts and specific reaches under consideration. The written recommendations can be accessed at

<http://cwcb.state.co.us/StreamAndLake/NewAppropriations/ISFAppropriationNotices/2010ProposedAppropriations/2010Appropriations.htm>.

These recommendations were officially noticed in March 2009, and staff has been processing the recommendations through draft water availability analyses, field investigations and outreach to stakeholders. On August 4, 2009, staff provided the Routt County Commissioners with an overview of the ISF program and a discussion of all ISF recommendations within Routt County and Water Division 6. Immediately following the meeting, the Morrison Creek Metropolitan Water and Sanitation District requested that staff provide an opportunity for public comment to the CWCB at its September 2009 Steamboat Springs meeting. Letters received by Staff to date regarding these recommendations are attached. This is an informational item with no Board action required.

### Attachments



# Colorado Water Conservation Board

## Instream Flow Tabulation - Streams

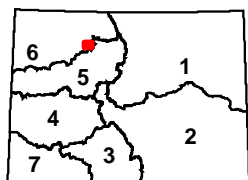
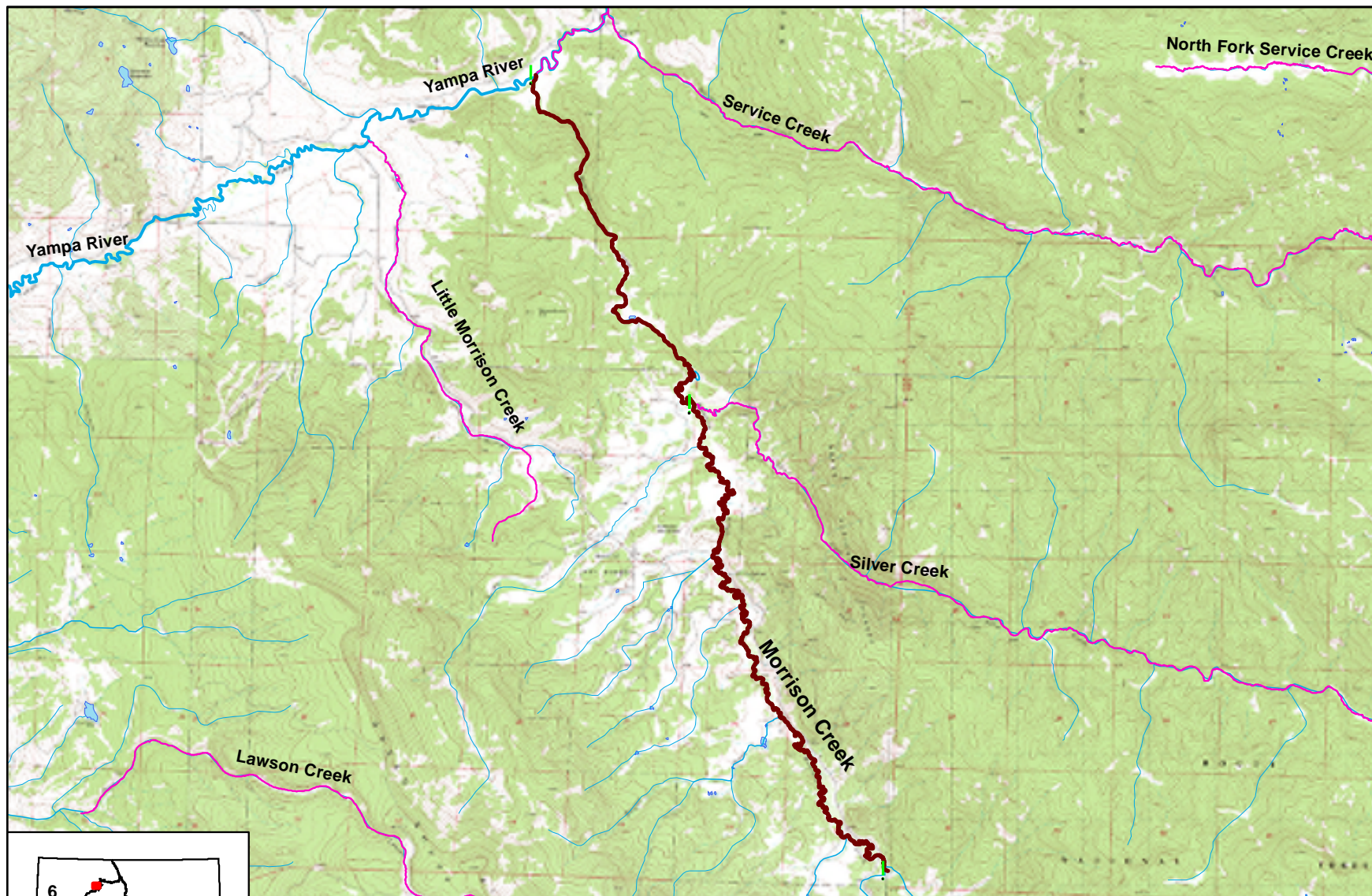


### Water Division 6

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
10/6/A-005	Morrison Creek	Upper Yampa	Routt	Dequine Ditch Alt. Pt. #1 lat 40 14 43N long 106 47 11W	confl. Yampa River at lat 40 17 24N long 106 48 57W	4.90	Blacktail Mountain Green Ridge	4 (10/1 - 4/30) 18 (5/1 - 9/30)	
10/6/A-003	Morrison Creek	Upper Yampa	Routt	confl Muddy Creek at lat 40 10 55N long 106 45 0W	confl Silver Creek at lat 40 14 42N long 106 47 11W	8.99	Green Ridge	2 (11/1 - 3/31) 3.1 (4/1 - 10/31)	
10/6/A-004	Morrison Creek	Upper Yampa	Routt	confl Silver Creek at lat 40 14 42N long 106 47 11W	confl Yampa River at lat 40 17 24N long 106 48 57W	4.91	Blacktail Mountain Green Ridge	13.2 (4/1 - 7/31) 10 (8/1 - 8/31) 7.9 (9/1 - 3/31)	

<b>Totals for Water Division 6</b>	<b>Total # of Stream Miles =</b>	<b>18.8</b>
	<b>Total # of Appropriations =</b>	<b>3</b>
<i>(Totals do not include donated/acquired water rights)</i>		

<b>Report Totals</b>	<b>Total # of Stream Miles =</b>	<b>18.8</b>
	<b>Total # of Appropriations =</b>	<b>3</b>
<i>(Totals do not include donated/acquired water rights)</i>		



September 15-16, 2009 Board Meeting  
Agenda Item 23; Instream Flow Recommendation  
Morrison Creek

0 0.5 1 2 Miles

1

# Upper Yampa Water Conservancy District



July 31, 2009

Linda Bassi, Esq.  
Stream and Lake Protection Section  
Colorado Water Conservation Board  
1313 Sherman Street, Suite 721  
Denver, CO 80203

**RECEIVED**

**AUG 03 2009**

Colorado Water Conservation Board

Re: Morrison Creek Instream Flow Recommendation

Dear Linda:

The Upper Yampa Water Conservancy District is pursuing several potential projects with the primary objective of providing drought protection to the Upper Yampa Basin. Several of these projects center on Morrison Creek. We have previously discussed these projects with the CWCB, including staff of the Stream and Lake Protection Section. Indeed the District requested and participated in the original field visit with your staff to assess flow needs of Morrison Creek.

This was done to aid in project planning and was prior to the current requests for an ISF on Morrison Creek. Additionally, as part of the District's Stipulations in water court filings, we have committed (and fully expected) to work with the staff of the CWCB on mitigation of the Silver Creek ISF should the Morrison Creek Reservoir project come to fruition. Remember, funds from the CWCB's 1177 funds have partially financed the feasibility study for the Morrison Creek Reservoir option.

Since several projects are currently under study we suggest that an ISF on Morrison Creek is premature. As you are aware any water development project on Morrison Creek will involve consultation with many agencies in order to craft appropriate mitigation. For the reservoir under study that would include at a minimum the CWCB, the Water Quality Control Division, the Colorado Division of Wildlife, the U.S. Fish and Wildlife Service, Routt County, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, The U. S. Forest Service and the Federal Energy Regulatory Commission. Input from these agencies and the public will be necessary to meet both environmental and water supply needs of the Upper Yampa Basin. An ISF on Morrison Creek at this time, prior to this input, is not warranted. We respectfully request that the Morrison Creek ISF proposal be withdrawn until the appropriate project to supply drought protection to the basin is decided upon and appropriate coordinated environmental mitigation decisions can be completed with all parties.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin McBride', written over a horizontal line.

Kevin McBride, P.E.  
District Manager



SHARP, STEINKE, SHERMAN & ENGLE LLC

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MARK E. STEINKE  
MELINDA H. SHERMAN  
GARY S. ENGLE  
KARINA SERKIN SPITZLEY

THOMAS R. SHARP  
Of Counsel

August 1, 2009

VIA EMAIL

Mr. Jeff Baessler  
Stream and Lake Protection Section  
Colorado Water Conservation Board  
Denver, CO

Re: Proposed Instream Flow for Morrison Creek, Water Division 6

Dear Jeff:

I have been a director for over 30 years of the Upper Yampa Water Conservancy District. I have been general counsel for over 35 years to the Morrison Creek Metropolitan Water and Sanitation District. I am currently the chairman of the Yampa-White River Basin Round Table. I have been involved for more than 30 years in water policy and water development in the Upper Yampa River Basin. I am currently Routt County's representative on the Colorado River Water Conservation District Board of Directors.

I was previously a member for 3 years of the Colorado Water Conservation Board, ending about 2 and ½ years ago. During that period, the BLM proposed a new instream flow appropriation on Morrison Creek. I strongly objected to the new appropriation at that time, and informed the Stream and Lake Protection Section and my fellow board members on the CWCB that the water users, Upper Yampa District, and Morrison Creek Metro District needed to defer any action on Morrison Creek for a new instream flow appropriation for a period of 5 years while we settle out how and where Morrison Creek water can be used and developed to (i) firm up the yield of Stagecoach Reservoir, and (ii) provide supplemental long-term M&I water to the upper basin, including particularly the 11,000-acre Stagecoach area which is an urban growth center in Routt County's master plan and which already has about 700 residents. Indeed, the south end of the Stagecoach area, including more than 1,000 platted lots, lies in the upper reaches of Morrison Creek.

The Board and BLM agreed to defer action on a Morrison Creek instream flow.

Now, only 2 and ½ years later, due to requests other than from BLM, the subject of appropriating instream flows on Morrison Creek has again reached nearly formal stages.

August 1, 2009

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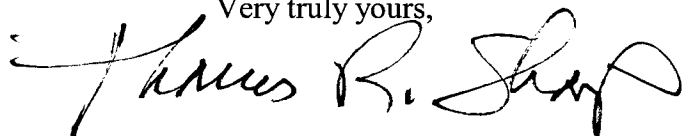
Neither the Upper Yampa District nor the Morrison Creek Metro District have resolved and completed the necessary focus on the location, method, and amounts of Morrison Creek water necessary for M&I development and to firm up Stagecoach Reservoir. The Metro District is still in the middle of its first major water supply master plan by HRS Water Engineers. Unless the proposals to make a new appropriation of instream flow on Morrison Creek are deliberately deferred and delayed for another couple of years at most, at least the Metro District may have to prematurely file for various water rights on upper Morrison Creek before it is even finally determined that such a filing is necessary for the final solution for water supply to the portion of the District on upper Morrison Creek.

I strongly and urgently request that the proposal for an instream flow on Morrison Creek be deferred and delayed for 2 more years, so that the total delay does not exceed the 5 years agreed to by the BLM when I was on the CWCB board.

During that time, the efforts of both the Upper Yampa District and the Metro District may become focused and finalized, so that the future instream flow appropriation will not encumber or impede such efforts.

Thank you for your consideration. Please consider this as my testimony at the August 4 meeting at the Routt County courthouse, which I cannot attend as I will be in the Leadville area.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas R. Sharp". The signature is fluid and cursive, with a large, stylized initial 'T'.

Thomas R. Sharp

:trs

cc: Geoff Blakeslee (via email)  
Kevin McBride (via email)  
Steve Colby (via email)

# **MORRISON CREEK METROPOLITAN WATER & SANITATION DISTRICT**

24490 Uncompahgre Road, Oak Creek, Colorado 80467

Telephone (970) 736-8250 / Fax (970) 736-0177

Email: [info@mcwater.org](mailto:info@mcwater.org)

August 3, 2009

VIA EMAIL

Mr. Jeff Baessler

Stream and Lake Protection Section

Colorado Water Conservation Board

Denver, CO

Re: Proposed Instream Flow Recommendation on Morrison Creek in Water Division 6

Dear Mr. Baessler,

The Morrison Creek Metropolitan Water and Sanitation District (MCMWSD) is the entity which is responsible for providing water and sanitation services to the Stagecoach subdivisions south of Steamboat Springs. The MCMWSD currently serves approximately 400 service connections and has water distribution lines in place which serve another approximately 300 as yet undeveloped lots. In addition there are another approximately 1800 platted lots which currently do not have water distribution lines but which could be serviced in the future. Most of these platted lots lie in the south area of the District which is tributary to Morrison Creek. There is also substantial unplatted land in the District boundaries which is identified for future development in land use plans.

The MCMWSD currently relies on groundwater pumped from the Browns Park aquifer for all of its supply. A water supply master plan has recently been prepared by HRS Water Consultants Inc. for the District. This plan has determined that wells drilled into the Browns Park aquifer could supply the District's needs until close to full buildout. Many of these wells will need to be located in the southern area of the District which is in the Morrison Creek drainage. HRS Water Consultants are currently studying how these wells may affect the surface streamflows.

We are concerned how a premature instream flow designation on Morrison Creek will affect our ability to provide for our service area. We would particularly ask that the designation be delayed until the MCMWSD has completed all masterplanning and investigative studies and has firmed up its future supply. We are also aware of efforts by the Upper Yampa Water Conservancy District to complete projects on Morrison Creek which could provide clear advantage to the MCMWSD for direct supply and/or augmentation purposes.

Thank you for consideration of our concerns and do not hesitate to contact me should you have any questions.

Sincerely,

Steve Colby

August 3, 2009

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District Manager

cc: Board of Directors, MCMWSD

Geoff Blakeslee

Kevin McBride

Doug Monger, Routt County Commissioner





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Craig, CO 81625  
970.824.5241

September 4, 2009

Colorado Water Conservation Board  
Department of Natural Resources  
1313 Sherman Street, Room 721  
Denver, CO 80203

Dear Board,

The undersigned organizations, which represent xxxx thousand Colorado citizens, would like to extend our support for the proposed Instream Flow Filing on Morrison Creek. We commend CWCB staff in the work that has been completed thus far, in compiling a well thought out detailed recommendation. This filing will help provide critical flows to preserve Morrison Creek, while balancing the needs of other water users in the Yampa River Basin.

We are aware that some stakeholders have requested this filing be delayed for 2 years, we feel this is unnecessary as the CWCB has a detailed and extended process by which to accommodate concerns raised by all stakeholders. The process by which the CWCB appropriates water rights, provides ample time for all stakeholders to engage in the filing and voice concerns, this additional 2 year delay is unneeded.

Additionally it is our understanding that the Morrison Creek Reservoir Application is likely to see a water right decreed before the end of 2009. Because this project is likely to have water rights senior to any appropriated by the Board, we feel it is prudent to move forward with the Staff's recommendation at this time.

We look forward to your consideration of Staff's recommendation and encourage you to support moving forward on the Morrison Creek instream flow appropriation.

Sincerely,

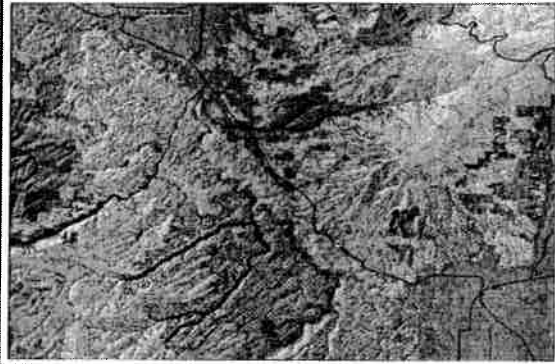
Becky Long  
Colorado Environmental Coalition

## Dominguez Canyons Wilderness Area

### Development of ISF Protection



## Where is Dominguez Canyons?



## Setting the Framework:

### Omnibus Public Lands Act of 2009



## What issues did the Omnibus Act eliminate?

- Wilderness doesn't include any locations of conditional water rights or the Gunnison River
- Legislation doesn't affect any existing rights, compacts, or water quality designation
- BLM may not authorize new water facilities, except for seven livestock watering ponds



## ISF Provisions: Omnibus Act

- Secretary of Interior shall insure that there is sufficient water to support wilderness purposes
- Secretary shall not pursue federal ISF rights if he finds that CWCB holds rights sufficient in priority, amount, and timing to fulfill purposes.
- Secretary shall enter into perpetual agreement with CWCB to ensure full exercise, protection, and enforcement of CWCB rights within the wilderness.



## Setting the Framework:

### Wilderness Act of 1964

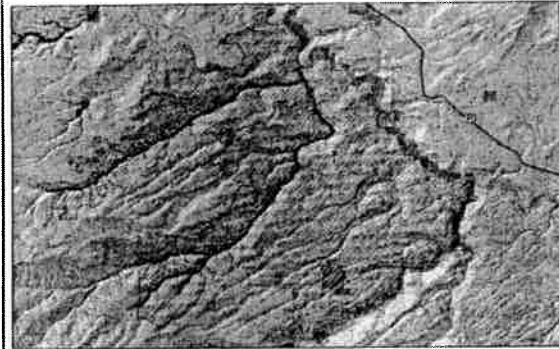


### Wilderness Definition in 1964 Act:



"An area retaining its primeval character and influence ... protected and managed so as to preserve natural conditions ... Affected primarily by forces of nature ..."

### What streams are affected?



### Primary Perennial Stream Systems in Dominguez Canyons Wilderness

- Big Dominguez Creek
- Little Dominguez Creek / Rose Creek



### Water –Dependent Values: Fisheries

- Upper elevations – rainbow trout
- Potential restoration site for CO River cutthroat trout
- Middle elevations – speckled dace
- Wilderness boundary to Gunnison River – roundtail chubs



### Water –Dependent Values: Invertebrates

- Higher abundance and diversity of species than average
- Species present indicate good water quality
- Awaiting lab results



### Water –Dependent Values: Riparian

Douglas fir, ponderosa pine, narrow leaf cottonwood, aspen, water birch, alder, dogwood, willows

Riparian communities in pristine condition

Cottonwood galleries with natural reproduction



### Water-Dependent Values: Terrestrial Wildlife in Stream Corridors

- Desert bighorn sheep
- Beaver
- Tree frogs
- Mule deer
- Elk
- Bobcats
- Black Bear



### Dominguez Canyons Hydrology

- Precipitation varies with elevation: 8,000 to 5,000'
- Large snowmelt flows in April - May  
– 50 to 200 cfs
- Large snowmelt recharges alluvial aquifers for summer



### Dominguez Canyons Hydrology



#### Typical baseflows:

- Big Dominguez: 1-5 cfs
- Little Dominguez: 0.25 - 1.00 cfs
- Baseflows sustain riparian and fisheries during high temperature periods
- Parts of lower stream reaches can go dry

### Dominguez Canyons Hydrology



- Water quality – no issues with DO, metals or selenium
- Wide variation in geology – sandstone & black schist
- Channel types – incised to open valleys

### Data Collection – completed by end of September



- Fish surveys
- Macroinvertebrate lab analysis
- Riparian surveys
- Hydrology studies
- transducer stations
- high flow estimates
- summary of historical data

### Dominguez Canyons Wilderness – Potential ISF Approach



Seek methodology input from stakeholders:

- CDOW
- Colorado River District
- Wilderness and wildlife advocates
- Local governments

## Developing an ISF Approach – Methodology Considerations



- Highly variable hydrology is key to natural systems
- Administration of ISF water right
- Development potential in the watershed

## How have flows been protected in other Wilderness Areas?



- Headwaters areas
- Legislative prohibition on new water developments
- Reliance upon other federal water rights – Gunnison Gorge Wilderness Area

## ISF Provisions: Omnibus Act

“...conserve and protect for the benefit and enjoyment of present and future generations –

- (1) the unique and important resources and values of the land, including ...natural, scientific, ... wildlife, riparian, ... and scenic resources of the public land
- (2) the water resources of area streams, based on seasonally available flows, that are necessary to support aquatic, riparian, and terrestrial species and communities

## Dominguez Canyons Wilderness – Potential ISF Approach



Full Range of Natural Hydrology:

- Snowmelt runoff
- Base flows
- Overbank flood events
- Aquifer recharge
- Rapid change in flow rates

## Any Wild Questions?





## COLORADO ENVIRONMENTAL COALITION

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#23

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Becky Long  
Colorado Environmental Coalition