

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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Harris D. Sherman
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CWCB Deputy Director

TO: Colorado Water Conservation Board Members

FROM: Jeff Baessler
Stream and Lake Protection Section

DATE: November 7, 2009

SUBJECT: **Agenda Item 10, November 16-18, 2009 Board Meeting**
Stream and Lake Protection – Notice of 2010 Instream Flow
Recommendations in Water Divisions 1, 2, 4, 5, 6 and 7.

Discussion

Pursuant to ISF Rule 5c., the Colorado Water Conservation Board is providing notice that the following 36 stream segments are being considered for instream flow (ISF) appropriations in 2010. At the January 2010 CWCB meeting, Staff may request that the Board form its intent to appropriate ISF water rights on these streams. These streams were previously noticed at the Board's March 2009 meeting.

Div	Stream Segment	County(ies)	Recommender(s)
1	Black Hollow Creek <i>(headwaters to confl Poudre River)</i>	Larimer	TU
2	Baldwin Creek <i>(headwaters to Chalk Creek)</i>	Chaffee	CDOW
2	Middle Creek <i>(headwaters to Ophir Creek)</i>	Custer / Pueblo	CDOW
2	Middle Creek <i>(Ophir Creek to Beulah Water Works)</i>	Custer / Pueblo	CDOW
4	Big Dominguez Creek <i>(reaches pending Federal legislation)</i>	Delta	BLM
4	Little Dominguez Creek <i>(reaches pending Federal legislation)</i>	Delta	BLM
4	Blue Creek (Increase to existing ISF right) <i>(Little Blue Creek to Morrow Point Reservoir)</i>	Gunnison	BLM
4	Willow Creek <i>(Sugar Creek to Blue Mesa Reservoir)</i>	Gunnison	BLM

4	Alpine Gulch <i>(headwaters to Henson Creek)</i>	Hinsdale	BLM
4	Spring Creek <i>(headgate Creede Trail Ditch to confl with Cebolla Creek)</i>	Hinsdale	BLM
4	Cebolla Creek <i>(Brush Creek to Spring Creek)</i>	Hinsdale / Gunnison	BLM
4	Cebolla Creek <i>(Spring Creek to USGS gage)</i>	Hinsdale / Gunnison	BLM
4	North Fork Tabeguache Creek <i>(headwaters to Tabeguache Creek)</i>	Montrose	USFS
4	Red Canyon Creek <i>(headwaters to Horsefly Creek)</i>	Montrose	USFS
4	San Miguel River <i>(Calamity Draw to Dolores River)</i>	Montrose	CDOW, BLM
4	Tabeguache Creek <i>(unnamed trib to Fortyseven Creek)</i>	Montrose	USFS
4	Tabeguache Creek <i>(confl Fortyseven Creek to Templeton Ditch)</i>	Montrose	BLM
4	Tabeguache Creek <i>(Templeton Ditch to confl San Miguel River)</i>	Montrose	BLM
4	Cochetopa Creek <i>(Nutras Creek to Pauline Creek)</i>	Saguache	BLM
4	Cochetopa Creek (Increase to existing ISF right) <i>(Alkali Creek to Tomichi Creek)</i>	Saguache / Gunnison	BLM
4	East Beaver Creek <i>(headwaters to Beaver Creek)</i>	Saguache	BLM
5	Colorado River <i>(Eagle/Grand Co. Line to Eagle River)</i>	Eagle	Eagle County
5	Colorado River <i>(Blue River to Piney River)</i>	Grand / Eagle	CDOW
5	Colorado River <i>(Piney River to Eagle River)</i>	Grand / Eagle	CDOW
6	Indian Creek <i>(headwaters to confl headgate West Arapahoe Feeder Ditch 2)</i>	Jackson	BLM
6	Wheeler Creek <i>(Headwaters to South Fork Big Creek)</i>	Jackson	BLM
6	West Prong South Fork Slater Creek <i>(Headwaters to Decker Ditch)</i>	Moffat Routt	CDOW, TU
6	Big Beaver Creek (Increase to existing ISF right) <i>(Allen Creek to East Beaver Creek)</i>	Rio Blanco	BLM
6	Grizzly Creek <i>(Unnamed tributary to USFS Boundary)</i>	Routt	CDOW, TU
6	Morrison Creek <i>(Muddy Creek to Silver Creek)</i>	Routt	DOW, James Larson, Dequine Family L.L.C, Flying Diamond Resources
6	Morrison Creek <i>(Silver Creek to Yampa River)</i>	Routt	
6	South Fork Slater Creek <i>(Headwaters to West Prong South Fork Slater Creek)</i>	Routt	CDOW, TU

6	South Fork Slater Creek <i>(West Prong South Fork Slater Creek to confl Slater Creek)</i>	Routt	CDOW, TU
6	West Prong South Fork Slater Creek <i>(Decker Ditch to South Fork Slater Creek)</i>	Routt	CDOW, TU
7	Animas River <i>(Minnie Gulch to Cunningham Creek)</i>	San Juan	BLM
7	Animas River <i>(Cunningham Creek to Arrastra Creek)</i>	San Juan	BLM

* CDoW (Colorado Division of Wildlife), TU (Trout Unlimited) and BLM (Bureau of Land Management)

The detailed recommendations and appendices for these streams can be found on the CWCB website at:

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

This is an informational item, with no Board action requested.

THE SOUTHWESTERN WATER CONSERVATION DISTRICT
A Municipal District Organized Under State Law For Development And Conservation Of The Waters in the
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES
IN SOUTHWESTERN COLORADO

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November 5, 2009

Jennifer Gimbel, Director
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Colorado Water Conservation Board of Directors
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Lower San Miguel River Water Needs and Proposed ISF

Dear Ms. Gimbel and Board Members;

The Southwestern Water Conservation District (SWCD) has been engaged in discussions with interested government entities, planners, and water providers in the San Miguel River basin regarding their future requirements for water supplies. These discussions were part of a dialogue initiated by a request from the Southwestern Basin Roundtable to update IPP's in the SWSI reports, and the recent recommendation for an in-stream flow appropriation on the lower San Miguel River from Calamity Draw to the confluence with the Dolores River. The flows recommended by the Division of Wildlife and the Bureau of Land Management range from a low of 80 cfs during base flow periods to a high of 325 cfs during the spring runoff.

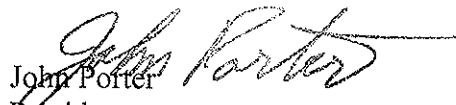
The SWCD acknowledges the possible need for a new appropriation on the lower end of the San Miguel River to assist in providing a sustainable population of fish species that are categorized as "species of concern", but the District also believes that a large in-stream flow this low in the basin and in the proximity of the state line would have a significant impact on the future consumptive use needs of this area. Representatives of SWCD have been meeting with elected officials in both San Miguel and Montrose Counties to assist them in identifying and quantifying their future water needs. It is the desire of all the parties to these discussions to continue this work, and to complete the assessment in a reasonable amount of time.

Therefore, the SWCD is requesting that the board members and staff of the Colorado Water Conservation Board (CWCB) delay an in-stream flow appropriation on the lower end of the San Miguel River until January of 2011, and that the CWCB not take formal action to advance and notice the in-stream flow appropriation at its November board meeting. If the CWCB moves forward with a new appropriation in 2010, it is anticipated that the SWCD as well as numerous water users and government entities in Montrose and San Miguel Counties will find it necessary to contest the appropriation and file opposition to the in-stream flow application with the water court. Given the current status of the State budget and the costs associated with lengthy litigation, this would not be a prudent expenditure of tax dollars for the state or for the district.

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The Southwestern Water Conservation District appreciates your consideration regarding this situation, and we are committed to working with entities in Montrose and San Miguel Counties to address their future water needs in the basin over the next year. It is anticipated that this will assist in limiting opposition to a new in-stream flow filing by the CWCB on the lower end of the San Miguel River in 2011.

Sincerely,


John Porter
President

Southwestern Water Conservation District

Cc: SWCD Board
Montrose BOCC
San Miguel BOCC