

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

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Governor

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DATE: January 14, 2010

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CWCB Deputy Director

SUBJECT: **Agenda Item 12, January 26-27, 2010, Board Meeting**  
**Stream and Lake Protection Section – Update on Instream Flow**  
**Recommendations on Big Dominguez Creek and Little Dominguez Creek**

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### Summary

This informational memo provides an update on the proposed instream flow recommendations on Big Dominguez Creek and Little Dominguez Creek. No Board action is required.

### Background

The Dominguez Canyon Wilderness was created on March 30, 2009 as part of the 2009 Omnibus Public Lands Management Act. The legislation provides an opportunity for the Colorado Water Conservation Board (CWCB) to appropriate an instream flow water right to support wilderness management purposes, in lieu of creating a federal right for wilderness management purposes. The stated purpose of the Act, among other things, is to “conserve and protect for the benefit and enjoyment of present and future generations . . . the water resources of area streams, based on seasonally available flows, that are necessary to support aquatic, riparian, and terrestrial species and communities.” The Act provides that the Secretary of the Interior “may appropriate and seek adjudication of water rights to maintain surface water levels and stream flows on and across the Wilderness to fulfill the purposes of the Wilderness.” However, the Act goes on to provide that the Secretary “shall not pursue adjudication of any Federal instream flow water rights if . . . the Secretary determines, upon adjudication of the water rights by the Colorado Water Conservation Board, that the Board holds water rights sufficient in priority, amount and timing to fulfill the purposes of the Act.” Pursuant to this legislation, the U.S. Bureau of Land Management (BLM) has been working with the CWCB to develop instream flow recommendations for Big Dominguez Creek and Little Dominguez Creek, which are the two primary stream systems located within the Wilderness Area.

Staff has been in discussions with the BLM and various stakeholders and has performed a site visit to both streams. The BLM is close to finalizing its description of the natural environment within the wilderness area and the quantification of the flows necessary for preservation of the natural environment to a reasonable degree. In October 2009, the Colorado River Water Conservation District, in coordination with CWCB staff, sent a letter to landowners and water rights holders of record upstream of the Wilderness Area informing them of these potential ISF water rights and inquiring about their current and projected water supply needs. Additionally, staff has hired a

consultant to evaluate any potential for future water development on a number of private in-holdings within the USFS lands located upstream of the Wilderness area.

Staff and Roy Smith of the BLM staff will provide the Board with an overview of the status of the Dominguez and Little Dominguez Creeks ISF recommendations. Staff anticipates bringing the recommendations to the Board at its March 2010 meeting for consideration and appropriation.