

Summary of Non-Traditional ISF Appropriations by CWC

Case Number	Stream Name	Amount Appropriated	Recommending Entity	Basis for Appropriation	Methodology	Outcome
1-74W7734	Arikaree River	1.5 cfs (2 miles) 3.5 cfs (7 miles) 7 cfs (5 miles)	Colorado Division of Wildlife (CDOW)	To preserve the habitat of diverse species of wildlife, including white tail deer, mule deer, many nesting species of water fowl and a large population of bullfrogs <ul style="list-style-type: none"> • No fish, but riparian wildlife associated with the ecosystem • No opposition, no “non-precedent” language 	R2Cross	Decreed
2-75W4270	Gageby Creek	1 cfs (5.1 miles)	CDOW	To preserve an important waterfowl marshland on the lower reaches of Gageby Creek <ul style="list-style-type: none"> • Opposition by SEWCD re: sr. rights of Ft Lyon Canal and constitutionality of ISF program; no “non-precedent” language 	R2Cross	Decreed
5-92CW286	Colorado River	581 cfs (14.7 mi) July-September	US Fish & Wildlife Service	To maintain and enhance Colorado squawfish habitat, and contribute to “sufficient progress” under the Recovery Program <ul style="list-style-type: none"> • Seasonal flow claim • Based on USFWS methodology for maintaining and enhancing Colorado squawfish habitat • Reduced from USFWS’s recommendation of 700-1,200 cfs based upon CWC staff’s water availability analysis • Many statements of opposition and terms and conditions, but no specific “non-precedent” language 	<i>Various, as outlined in separate USFWS Reports¹</i>	Decreed
1-93CW100	Little Dry Creek	2.2 cfs (5.7 miles)	CDOW, City of Greenwood Village	To preserve a rare reach of stream in city not impacted by urbanization <ul style="list-style-type: none"> • Natural environment includes the following: <ul style="list-style-type: none"> ○ Native fish species (creek chubs, western white suckers, fathead minnows) ○ Riparian vegetation ○ Terrestrial wildlife resources (birds, mammals, amphibians and reptiles) • PHABSIM and IFIM used to quantify needs of existing fishery • A few oppositions related to Highline Canal; no “non-precedent” language 	IFIM/PHABSIM	Decreed

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5-94CW330	Colorado River	300 cfs (2 miles) July - September	US Fish & Wildlife Service	<p>To maintain and enhance Colorado squawfish habitat, and contribute to “sufficient progress” under the Recovery Program</p> <ul style="list-style-type: none"> Based on same USFWS methodology regarding endangered fish needs Water availability analysis done on accretions to 15 Mile Reach (return flows and storm runoff) Appropriation for endangered fish ISF limited to: <ul style="list-style-type: none"> Accretions to the lower portion of the 15 Mile Reach CWCB not exercising this ISF right to call out junior appropriators above 15 Mile Reach CWCB not exercising this ISF right to maintain historic return flows or surface runoff to 15 Mile Reach that may be reduced by water conservation measures by water rights holders or the US 	<i>Various, as outlined in separate USFWS Reports¹</i>	Decreed
6-95CW155	Yampa River	Recovery Flow -- <i>any available flow remaining after development of a 52,000 AF carve-out -- modifiable appropriation (82 miles)</i>	US Fish & Wildlife Service	<ul style="list-style-type: none"> Two applications filed on Yampa River: (1) base flow (88 – 1,200 cfs), and (2) recovery flow Flow amounts based on USFWS methodology that was confirmed by CDOW Yampa recovery flow for available flows after a 52,000 AF consumptive use carve-out developed; recovery flow modifiable to increase the carve-out. USFWS withdrew support of applications because it believed they would not significantly benefit the fish. CWCB withdrew applications in 1999. 	<i>Various, as outlined in separate USFWS Reports²</i>	Withdrawn by CWCB after strong opposition in Water Court and eroding support from FWS
6-95CW156	Yampa River	Base Flow – <i>88 cfs to 1200 cfs (82 miles)</i>	US Fish & Wildlife Service	See Yampa Recovery Flow filing	<i>Various, as outlined in separate USFWS Reports²</i>	Withdrawn by CWCB after strong opposition in Water Court and eroding support from FWS

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5-95CW296	Colorado River	Recovery Flow – <i>any available flow remaining in the 15 mile reach after development of a 100,000 AF carve-out -- modifiable appropriation</i>	US Fish & Wildlife Service	<ul style="list-style-type: none"> Two applications filed on Colorado River: (1) base flow (810 – 2,000 cfs), and (2) recovery flow Flow amounts based on USFWS methodology that was confirmed by CDOW Colorado recovery flow for available flows after a 100,000 AF consumptive use carve-out developed; recovery flow modifiable to increase the carve-out. USFWS withdrew support of applications because it believed they would not significantly benefit the fish. CWCB withdrew applications in 1999. 	<i>Various, as outlined in separate USFWS Reports¹</i>	Withdrawn by CWCB after strong opposition in Water Court and eroding support from FWS
5-95CW297	Colorado River	Base Flow – <i>810 cfs - 2000 cfs (14.7 miles)</i>	US Fish & Wildlife Service	See Colorado River Recovery Flow filing	<i>Various, as outlined in separate USFWS Reports¹</i>	Withdrawn by CWCB (see above)
5-96CW350 5-96CW351 5-96CW352	Dead Horse Creek	All the unappropriated flow <i>11.4 miles</i>	US Forest Service	<p>Preserves natural environment broader than fishery</p> <ul style="list-style-type: none"> Appropriated and adjudicated all the unappropriated flow based upon the unique hydrologic and geologic natural environment associated with the Dead Horse Creek watershed, including Bridal Veil Falls and Hanging Lake. Bird species (black swifts) and riparian vegetation cited as part of unique natural environment ISFs also would ensure protection of recreational and aesthetic qualities of area Cooperative effort between USFS and CWCB Ease of administration cited to support all unappropriated flow approach No development allowance No opposition and no “non-precedent” language 	<i>Detailed, site-specific studies by USFS</i>	Decreed

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4-03CW265	Gunnison River (Black Canyon)	Staged flows 300 cfs to 14,500 cfs, May 1 to July 31 (28.9 miles)	Dept. of Interior	<p>Addressed unique requirements of several aspects of the natural environment in the subject reach of the Gunnison River:</p> <ul style="list-style-type: none"> – Transport sediment, scour the riverbed and move debris deposits in the channel to protect critical biological habitats and the canyon itself. – Rejuvenate existing and create new aquatic insect habitat. – Remove fine sediment to enhance native fish species and assure the continued existence of a self-sustaining exotic sport fishery. – Prevent the permanent establishment of woody riparian vegetation. <ul style="list-style-type: none"> • Claimed very large flow amounts -- flows of 300 cfs to 14,500 cfs -- May - July (28.9 miles) • Water available to the ISF from Aspinall Unit would be managed to achieve base, shoulder and peak flows identified by the Dept. of Interior. • Application contained no-precedent language: "This ISF water right appropriation is based upon the facts and circumstances particular to this situation and to this segment of river, and shall have no precedential effect on future ISF appropriations." • Water users supported this approach; enviros supported it while they challenged underlying agreement btw State and Feds in federal court --federal court's invalidation of agreement probably only reason not decreed. 	<i>Detailed, site-specific studies by NPS and DOI³</i>	Withdrawn by CWCB after Federal Court ruled NPS did not have authority to enter into MOA with State that established CWCB as entity that would appropriate the ISF to achieve NPS resource protection goals
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4-05CW245	Spring Creek	All the unappropriated flow for 0.02 miles above the spring, and flows ranging between 0.5 cfs- 2.7 cfs for 0.8 miles below the spring, and additional flows of 1.9 – 2.2 cfs for same reach	US Forest Service	<p>Preserves natural environment broader than fishery; based on USFS designation of Special Interest Area: unusual hydrologic character, supports important ecological processes and wetland ecosystems.</p> <ul style="list-style-type: none"> • Appropriated and adjudicated all unappropriated water for top part of reach from natural springs and seeps at headwaters of Spring Creek down to spring outlet; lower reach was for more traditional flow amounts. • Coordination with USFS • Relied upon USFS site-specific study <p>Non-precedent language: “The above terms and conditions were agreed to pursuant to the stipulation of the Colorado Water Conservation Board and the United States Forest Service and because of the unique characteristics and circumstances concerning Spring Creek, and therefore establishes no precedent or expectation or interest with respect to any other stream within the State of Colorado.</p>	<i>Detailed, site-specific study by USFS⁴</i>	Decreed
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¹ “Biologically Defensible Flow Recommendations for the Maintenance and Enhancement of the Colorado Squawfish Habitat in the 15 Mile Reach of the Upper Colorado River during July-August-September”

“Recommendations for Flows in the 15-Mile Reach During October –June for Maintenance and Enhancement of Endangered Fish Populations in the Upper Colorado River”

“Relationships between Flow and Rare Fish Habitat in the 15 Mile Reach of the Upper Colorado River”

² “Habitat Use and Streamflow Needs of Rare and Endangered Fishes, Yampa River, Colorado”

“Streamflow Needs of Rare and Endangered Fishes: Yampa River Flow Quantification”

“Flow Recommendations for Endangered Fishes in the Yampa River”

³ “Scientific Basis for the Requested Appropriation to Protect the Natural Environment of the Black Canyon of the Gunnison National Park to a Reasonable Degree”

⁴ “Preliminary Evaluation of Seasonal Streamflows Necessary to Sustain Spring Creek Wetland: Grand Mesa, Uncompahgre and Gunnison National Forests”