

Grand Junction Daily Sentinel (editorial) March 12, 2010

Future may be clear for Dominguez waters

A little more than a year after Congress established the Dominguez-Escalante National Conservation Area, state water officials and federal agencies are trying to reach agreement on how best to protect the waters of Big and Little Dominguez Creeks within the NCA boundaries.

The BLM has proposed an unusual plan for resolving the issue, under which the state may file for instream water rights for the two streams that run through a wilderness area in the NCA. The concept is one the Colorado Water Conservation Board should accept when it takes up the question in May.

At the heart of the proposed solution is an agreement written into the federal legislation that created the NCA: If the state files for adequate instream water rights for the two wilderness creeks, the Interior Department won't assert a federal water right.

The Daily Sentinel has long maintained that it serves Colorado interests better if the state files for instream flow rights through state water courts, rather than having federal officials simply lay claim to the rights. With that in mind, we support the agreement written into the Dominguez-Escalante legislation.

Furthermore, the water language in the bill was developed through a cooperative effort before the legislation was introduced. Contrast that with Denver Congresswoman Diana DeGette, whose bill to create more than 30 wilderness areas around the state was heard in a U.S. House committee Thursday. The water language in her bill is opposed by many water entities in the state.

The difficulty comes in determining how much water is appropriate "for wilderness management purposes." Not much water flows through either Big or Little Dominguez Creek most of the year — less than 4 cubic feet per second even in Big Dominguez.

But at other times — during spring runoff, summer rains or the much larger storms that occur every 10 years or so — the flow can be much larger. It can be around 75 cubic feet per second during spring runoff and as much as 10 times that during large floods.

The BLM has asked the state to seek a variable instream water right that recognizes streamflow can change dramatically.

That's not how Colorado instream flow rights have traditionally been appropriated in the past. A set minimum amount has been the typical filing. But a variable rights have been filed for a handful of other streams in the state..

Private water rights are also an issue. Even though the headwaters of both Big and Little Dominguez Creeks are both high up on the Uncompahgre Plateau in the Uncompahgre National Forest, there is private land within the national forest that depends on water from the two creeks. The BLM proposal recognizes that, and acknowledges rights will be senior to the state's instream flow filings, and there will be some modest amount of water for additional future development of those rights.

The exact volume of water that should be claimed for each part of the year may need some tweaking. But the concept the BLM has submitted appears a sensible way to protect the waters of the two streams. It can ensure enough water "to support wilderness management purposes" without turning management of the streams over to the federal government.

http://www.gjsentinel.com/opinion/articles/future_may_be_clear_for_doming

Grand Junction Daily Sentinel (letter)

Innovative proposal will protect Dominguez waters

Regarding the March 11 editorial by The Daily Sentinel, "Future may be clear for Dominguez waters": Trout Unlimited applauds the Sentinel for supporting a balanced, innovative plan to meet the water needs of the Dominguez-Escalante National Conservation Area and Dominguez Canyons Wilderness Area. Healthy wilderness rivers and streams require more than minimal flows. They also require larger "flushing" flows in the spring to ensure that natural stream processes and hydrology are maintained. In last year's Black Canyon of the Gunnison settlement, for instance, all parties agreed on the need for flushing flows to mimic the flow variability that occurs under natural conditions. In the Dominguez case, the BLM plan is innovative in calling for the state to claim water rights to meet the flow needs of the federal wilderness area. This arrangement allows Colorado to maintain control over the water resource while satisfying the purposes of the federal wilderness designation which, as the Sentinel points out, resulted from a constructive, cooperative effort. The Colorado Water Conservation Board should approve this plan to keep the Big and Little Dominguez creeks running wild.

DREW PETERNELL, Director
Colorado Water Project
Trout Unlimited

http://www.gjsentinel.com/opinion/articles/printed_letters_march_19_2010



April 26, 2010

Mr. Geoff Blakeslee, Chair
CWCB Board
ATTN: Linda Bassi
1313 Sherman St., 7th Floor
Denver, CO 80203

RE: DOMINGUEZ WILDERNESS INSTREAM FLOWS

Dear Chairman Blakeslee:

The Board of the Colorado River District last week in its regular quarterly meeting reviewed the outline and structure of CWCB staff's proposed instream flow appropriations for segments of Big and Little Dominguez Creeks that lie within the recently created Dominguez Wilderness Area. The Board endorsed unanimously the proposed approach to these two particular instream flow appropriations.

The River District believes the approach staff proposes for the structure of the Dominguez instream flows is appropriate to the situation and consistent with both the instream flow statute and the federal legislation enacting the wilderness area. Additionally, the River District appreciates staff working with and through the River District to reach out to area water users and the Board's hiring of a consultant to forecast future water uses to be addressed by a development allowance.

We plan on having a River District staff member available for testimony in support of these filings at your May board meeting.

Sincerely,

A handwritten signature in blue ink, which appears to read "R. Eric Kuhn", is positioned below the "Sincerely," text.

R. Eric Kuhn,
General Manager



April 29, 2010

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

VIA Email: Linda.Bassi@state.co.us

Dear Colorado Water Conservation Board Directors,

The Nature Conservancy (TNC) submits this letter in formal support of the intent to appropriate instream flow (ISF) water rights on Big Dominguez Creek and Little Dominguez Creek in the newly designated Dominguez Canyon Wilderness Area. TNC supports the appropriation of instream flow rights for the Big Dominguez and Little Dominguez Creeks in both a sufficient size and timing to protect water related values.

In March of 2009, through an act of Congress that reflected a consensus among stakeholders, Colorado was presented with the unique opportunity to work with the CWCB to protect the vital resources of the newly designated Dominguez Canyon Wilderness area. The CWCB now has the opportunity, via this new legislation, to protect some of Colorado's best wild areas and waters without jeopardizing existing water rights.

CWCB staff has worked collaboratively with the Bureau of Land Management (BLM) and many other stakeholders to assess the flows needed to protect the wilderness values and purposes of the Dominguez Canyon Wilderness Area. From that collaborative effort, a recommendation has arisen that serves the needs of water rights holders and upholds the wilderness values of the newly designated wilderness as envisioned by Congress. We believe that the recommendations put forward by BLM and CWCB staff provide water rights sufficient not only to keep the streams flowing but also to protect the aquatic and riparian ecosystems which rely on them. Further, and importantly, appropriation of ISFs for these streams will avoid the assertion of a federal reserved water right for the wilderness.

We understand there has been some concern over peak flow ISF levels needed to protect the environment to a reasonable degree. Within the CWCB's ISF program, R2CROSS has been the traditional approach to quantifying ISFs. This method is suitable for identifying the minimum flow necessary to allow trout to survive in cold-water streams. However, R2CROSS is not designed to ensure protection of all components of the environment. There exists abundant scientific evidence available in hundreds of peer-reviewed publications indicating that more complex flow patterns—peak flows, minimum flows, and variability in all aspects of the hydrologic regime—are needed to protect river health. We believe comprehensive ISF recommendations put forth by the Bureau of Land Management with support from CWCB staff are fully justifiable to protect the important stream resources in the Dominguez watershed.

We enthusiastically recommend that the CWCB accept the staff recommendation and file an intent to appropriate instream flow water rights for both Big Dominguez and Little Dominguez Creeks.

Sincerely,
Adam Bergeron
Water Project Director
The Nature Conservancy



RECEIVED

APR 30 2010

Colorado Water Conservation Board

April 30, 2010

Board Members
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Dominguez Canyons Instream Flow Recommendations

Dear Board Members,

On behalf of Trout Unlimited's Colorado Water Project, Colorado Trout Unlimited and Trout Unlimited's Grand Valley Anglers and Gunnison Gorge Anglers Chapters, the undersigned are writing to urge you to adopt your staff's recommendations for instream flow appropriations for Big Dominguez Creek and Little Dominguez Creek in the Dominguez Canyons Wilderness Area. These special creeks are worthy of the highest level of protection available under the Colorado Water Conservation Board ("CWCB") instream flow program.

Trout Unlimited is a national, non-profit coldwater fisheries conservation organization. In Colorado, we have roughly 10,000 members, including approximately 300 members in our Grand Junction based Grand Valley Anglers Chapter and 225 members in our Delta and Montrose based Gunnison Gorge Anglers Chapter. Trout Unlimited is highly interested in the CWCB instream flow program and in the continuing health of Big and Little Dominguez Creeks. These creeks are exceptional resources and their upper reaches harbor healthy population of rainbow trout.

In March of 2009, Congress passed the Omnibus Public Lands Act of 2009, officially creating the Dominguez Canyons Wilderness Area adjacent to the Gunnison River. The legislation represented a consensus among various stakeholders, including conservation interests and water user groups, and presented Colorado with a unique opportunity to use the CWCB instream flow program to protect the water-dependent wilderness values of the newly designated wilderness area. In particular, the legislation asks the CWCB to use its instream flow program to appropriate instream flow water rights for Big and Little Dominguez Creeks in quantities sufficient to preserve their wilderness character. The legislation further provides that the Department of Interior will refrain from invoking federal authorities to protect stream flows in these creeks so long as the Secretary determines that the state water rights are sufficient to meet federal purposes.

Colorado has long sought to minimize the use of federal powers to protect streams flows in rivers and creeks in this state. The Dominguez Canyons Wilderness legislation recognizes this interest without undermining the United States' need to preserve the wilderness character of Big

Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization

1320 Pearl Street, Suite 320, Boulder, CO 80302
(303) 440-29370 • Fax: (303) 440-7933 • www.tu.org

and Little Dominguez Creeks. The staffs of the CWCB and the Bureau of Land Management have forged a recommendation that accommodates state and federal interests and the interests of current and future water users in Colorado. By seizing this opportunity, the CWCB can demonstrate the viability of the state instream flow program in meeting federal needs without the assertion of federal authorities.

It is with our strongest support that we urge you to adopt your staff's recommendation for instream flow water rights on Big and Little Dominguez Creeks. Thank you for considering our comments on this important matter.

Sincerely,

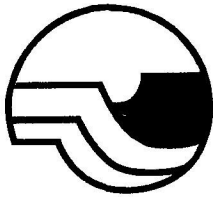
A handwritten signature in blue ink, appearing to read 'Drew Peternell', is written over the word 'Sincerely,'.

Drew Peternell, Director
Trout Unlimited's Colorado Water Project

David Nickum, Executive Director
Colorado Trout Unlimited

Dave Trimm, President
Trout Unlimited's Grand Valley Anglers Chapter

Anthony Chelf, President
Trout Unlimited's Gunnison Gorge Anglers Chapter



Mesa County, Colorado
BOARD OF COUNTY COMMISSIONERS

District 1 - Craig J. Meis (970) 244-1605
District 2 - Steven Acquafresca (970) 244-1604
District 3 - Janet Rowland (970) 244-1606

P.O. Box 20,000 • 544 Rood Avenue • Grand Junction, Colorado 81502-5010 • FAX (970) 244-1639

May 3, 2010

Geoff Blakeslee, Chairman
Colorado Water Conservation Board
1313 Sherman St., 7th Floor
Denver, CO 80203

RECEIVED
MAY 07 2010
Colorado Water Conservation Board

Dear Chairman Blakeslee:

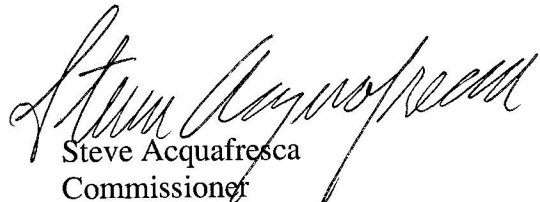
The Mesa County Board of Commissioners is in support of the proposed instream flow filing coming before the Colorado Water Conservation Board in May for creeks within the Dominguez Wilderness Area.

We feel this filing will protect existing water rights and will provide for future water development. We feel it will also protect wilderness environment and meet federal legislative intent.

Sincerely,


Craig J. Meis, P.E., Chair
Board of Commissioners


Janet Rowland
Commissioner


Steven Acquafresca
Commissioner

s:\kc&bl\letters\support\cwcb.doc



RECEIVED

MAY 06 2010

COLORADO RIVER WATER
CONSERVATION DISTRICT

BOARD OF COUNTY COMMISSIONERS

May 4, 2010

Mr. Geoff Blakeslee, Chairman
Colorado Water Conservation Board
1313 Sherman Street, 7th Floor
Denver CO 80203

RE: Dominguez Wilderness Instream Flows

Dear Chairman Blakeslee:

Montrose County Board of County Commissioners supports the outline and structure of the CWCB staff's proposed instream flow appropriations for segments of the Big and Little Dominguez Creeks that lie within the recently created Dominguez Wilderness Areas. Montrose County and the Board have a great interest and concern about proposed State water usage and water appropriations. We feel that the CWCB is being responsible and upholding Colorado water laws regarding instream flow for the Dominguez Creeks.

Instream flow appropriations for the future would be achievable and realistic; therefore, the Board supports and desires the appropriations be approved as requested.

Sincerely,

Ronald D. Henderson
Chairman

/ihsn

Copy: Linda Bassi, CWCB
Christopher Treese, CRWCD



Wild Connections

FROM THE MOUNTAINS TO THE PRAIRIES

1420 Pinewood Road
Florissant, CO 80816
719-686-5905
info@wildconnections.org
www.wildconnections.org

May 4, 2010

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

Dear Colorado Water Conservation Board Members,

Wild Connections supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to approve the appropriate instream flow filings to establish this important and timely protection.

It is important to protect the riparian habitat, stream channel and the wildlife that depends on adequate water in the streams. Protecting the instream flows will also greatly enhance the scenic values of the Dominguez Canyon Wilderness. Further, the instream flow filings are an opportunity for a state-federal partnership in providing that stream flow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and reasonable approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Jean C. Smith
Associate Director



May 5, 2010

Colorado Water Conservation Board
1313 Sherman, Room 721
Denver 80203

Dear Colorado Water Conservation Board Members,

Great Old Broads for wilderness enthusiastically supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for considering this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Veronica Egan, Executive Director

May 4, 2010

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

VIA Email: Linda.Bassi@state.co.us

Dear Board,

On behalf of the Colorado Environmental Coalition, Rocky Mountain Chapter of the Sierra Club, and San Juan Citizens' Alliance, I heartily submit this letter of support for the intent to appropriate water rights on Big Dominguez Creek and Little Dominguez Creek in sufficient size and timing to protect water related values in the newly designated Dominguez Canyon Wilderness Area, as proposed by CWCB staff.

In March of 2009, through an act of Congress that reflected a consensus among stakeholders, Colorado was presented with the unique opportunity to work via the Colorado Water Conservation Board (CWCB) Stream and Lake Protection Program to protect the vital resources of the newly designated Dominguez Canyon Wilderness area. Capitalizing on this new opportunity the CWCB can forge a new way forward to protect Colorado's best wildlands in a manner consistent with protection for and full exercise of other, existing water rights. To demonstrate the utility of the state-based approach, we made a recommendation to the CWCB in September of 2009 that the CWCB make determinations of needs utilizing a strong science based approach and appropriates water rights to protect the Dominguez Canyon Wilderness.

CWCB staff has worked collaboratively with the Bureau of Land Management (BLM) and many other stakeholders to assess the flows needed to protect the wilderness values and purposes. That effort has come up with a recommendation that has been tailored to the needs of current and future generations and which protect the wilderness as envisioned by Congress. We believe that the recommendations put forward by BLM and CWCB staff provide water rights sufficient not only to keep the streams flowing but to protect the aquatic and riparian ecosystems which rely on them, but will also avoid the assertion of a federal reserved water rights for the wilderness.

We enthusiastically recommend that the CWCB accept the staff recommendation and file an intent to appropriate for both Big Dominguez and Little Dominguez Creeks.

Sincerely,



for

Becky Long
Colorado Environmental Coalition

Meghan Maloney
San Juan Citizens' Alliance

Steve Glazer
Rocky Mountain Chapter of the Sierra Club

HIGH COUNTRY CITIZENS' ALLIANCE

PO Box 1066 • Crested Butte, Colorado 81224
(970) 349-7104 • FAX: (970) 349-0164
Office@hccaonline.org • www.hccaonline.org

5/5/10

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

VIA Email: Linda.Bassi@state.co.us

Re: Dominguez water right filings

Dear Board,

These comments are submitted on behalf of the members of High Country Citizens' Alliance, a local, 600+ member grassroots conservation group in the headwaters of the Gunnison River Basin. The mission of our organization is to champion the protection, conservation and preservation of the natural ecosystems within the Gunnison River Basin. In the spirit of our mission, we offer our endorsement and support for the Board's intent to appropriate water rights in Big and Little Dominguez creeks in sufficient quantities and timing necessary to support the resilience of the native aquatic, riparian and terrestrial species found in this unique environment. Many of our members have recreated in this newly designated wilderness and encourage you to appropriate the flows needed to allow this area to thrive in its natural equilibrium.

Though the skilled leadership of then-Senator Ken Salazar, Congress gave Colorado the unique opportunity to avoid federal/state water right conflicts of the past. Your staff collaborated effectively with the BLM to bring a science-based approach to determine what would be needed to protect the precious resources of Dominguez Canyon for the enjoyment of current and future generations as envisioned by Congress.

We acknowledge your staff's effort, with the assistance of the CRWCD, to reach out to the landowners in the basin whom might be impacted by your effort. We think the provision you are putting on your appropriation to carve out up to 100 af for future junior depletions is fair and reasonable for all concerned. You should feel comfortable to, and we would be pleased for you to, move this appropriation forward.

Sincerely,



Water Program Director



Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203

May 6, 2010

Dear Colorado Water Conservation Board Members,

Colorado Wild strongly supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the recommended instream flow filings to establish important and timely protection for the Wilderness.

Wilderness areas are those that “appear[] to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable”. (The Wilderness Act, section 2(c)). Having natural water flows in the two main streams in the Dominguez Canyon Wilderness will help ensure that this provision will be met, as such flows will maintain natural stream channels and good fish habitat.

In addition to protecting the uniquely preserved and natural values of Dominguez Canyon Wilderness, these instream flow filings represent an excellent opportunity for an important state-federal partnership in providing that streamflow protection. This issue is often contentious, but would here be perfectly congruent with the legislation that established the Dominguez Canyon Wilderness.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state’s authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the staff recommendation for protecting stream flows in Dominguez Canyon.

Sincerely,

Rocky Smith, ForestWatch Campaign Coordinator
Colorado Wild
1030 Pearl #9
Denver, CO 80203
rocky@coloradowild.org

Tony Prendergast
1308 Clear Fork Road
Crawford, Colorado 81415

6 May 2010

RECEIVED

MAY 10 2010

Colorado Water Conservation Board

Colorado Water Conservation Board
1313 Sherman, Room 721
Denver 80203

Dear Colorado Water Conservation Board Members,

As a private citizen from Delta County who worked hard on the effort to create the Dominguez Canyon Wilderness, I support the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. I encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for a state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,



Tony Prendergast



PO BOX 1442, CARBONDALE, CO 81623
www.wildernessworkshop.org
TEL 970.963.3977
FAX 970.963.8447

May 7, 2010

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

Dear Colorado Water Conservation Board Members,

Wilderness Workshop enthusiastically supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Sloan Shoemaker".

Sloan Shoemaker, Executive Director



PO Box 389, Telluride, CO 81435 • 970-728-3729 • FAX 970-239-4989 • www.sheepmountainalliance.org

May 7, 2010

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

Dear Colorado Water Conservation Board Members,

Sheep Mountain Alliance enthusiastically supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Hilary White

Executive Director



Working to Protect Native Species and Their Habitats

P.O. Box 1512, Laramie, WY 82073 (307) 742-7978 fax: 742-7989

May 7, 2009

Colorado Water Conservation Board
1313 Sherman, Room 721
Denver 80203

Dear Colorado Water Conservation Board Members,

Biodiversity Conservation Alliance strongly supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection. Instream flows are critical for the maintenance of viable populations of trout and other fishes and aquatic organisms.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Erik Molvar
Executive Director



COLORADO WATER TRUST

1430 Larimer Street, Suite 300
Denver, Colorado 80202

TEL: 720.570.2897
FAX: 303.996.2017
WEB: www.coloradowatertrust.org

BOARD OF DIRECTORS:

Michael F. Browning, *President*
David Robbins, *Vice President*
Leo Eisel, *Secretary*
David C. Smith, *Treasurer*
Tom Bie
Rick Carroll
David Getches
David L. Harrison
Taylor E.C. Hawes
Tom Levandoski
Peter Nichols
Lee Rozaklis
Patti Wells
Ruth Wright

STAFF:

Amy W. Beatie, *Executive Director*

May 10, 2010

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

Dear Colorado Water Conservation Board:

Typically, the Colorado Water Trust ("CWT") focuses on the acquisition side of the state's instream flow program. However, CWT wishes to lend its support to the success of the entire instream flow program. To that end, CWT encourages the Colorado Water Conservation Board ("CWCB") to declare its intent to appropriate instream flow water rights on Big Dominguez Creek and Little Dominguez Creek. CWT believes the CWCB has the legal flexibility to apply its existing tools to unique circumstances to preserve instream flows.

The General Assembly delegated broad authority to the CWCB for stream protection. The CWCB may "appropriate . . . such waters of natural streams . . . as the board determines may be required for minimum stream flows . . . to preserve the natural environment to a reasonable degree." C.R.S. § 37-92-102(3). The statute explicitly gives the Board discretion to determine at what level streamflows should be preserved to protect Colorado's rivers.

Moreover, the Board, as an agency board, possesses wide discretion when interpreting and executing legal mandates. If a court reviews your actions, it may only disagree with them if you acted "arbitrarily or capriciously." A court will not find an agency decision arbitrary or capricious unless it finds "that there is no competent evidence supporting the agency's decision." *Dolan v. Rust*, 576 P.2d 560, 562 (Colo. 1978). As guidance to make such a determination, the court will "ascertain whether the agency examined the relevant data and articulated a rational connection between the facts found and the decision made." *Maggard v. Dep't of Human Services*, 226 P.3d 1209, 1212 (Colo. Ct. App. 2009) (citing *Olenhouse v. Commodity Credit Corp.*, 42 F.3d 1560, 1574 (10th Cir.1994)). This means that as long as there is evidence in the record to support your decision to move ahead with the Dominguez filing, a court is likely to uphold your decision if it is reviewed.

The Dominguez Creek appropriation presents an opportunity. The streams flow through a Wilderness Area in one of the least populated areas of the state. The scientific surveys of the area indicate a superb and isolated ecological environment that benefits significantly from its largely unaffected natural hydrograph. Current water users would be unaffected

by the appropriation, and the minimal projected future development would be protected by a development allowance. The CWCB should preserve this natural environment to a reasonable degree by appropriating the entire hydrograph minus the development allowance.

Finally, a word about our interest: as an organization, CWT has never commented on a CWCB appropriation before. We work entirely within the CWCB's acquisitions program; it helps us maintain a voluntary, market-based approach to stream protection. We write today because we believe in the CWCB's power to craft unique appropriations for unique streams. No two stream reaches are the same, either ecologically or administratively, and so we encourage the CWCB to continue to think creatively about how to craft stream protections to match such diversity. We believe that appropriating these instream flow rights in the Dominguez Creeks would be a valid exercise of CWCB authority, and CWT encourages the Board to declare its intent to appropriate.

Sincerely,

A handwritten signature in black ink, reading "Amy W. Beatie". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Amy W. Beatie

MAY 14 2010

Colorado Water Conservation Board

May 7, 2010

Mr. Geoff Blakeslee, Chair
Colorado Water Conservation Board
1313 Sherman St., 7th Floor
Denver, CO 80203

Attention: Ms. Linda Bassi

RE: BIG AND LITTLE DOMINGUEZ CREEKS - DOMINGUEZ WILDERNESS INSTREAM FLOWS

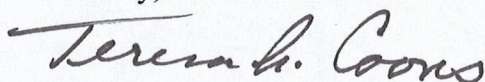
Dear Chairman Blakeslee,

At its May 5, 2010 meeting the Grand Junction City Council authorized this letter of support and endorsement of the proposed appropriation of instream flows (ISF) in the Big and Little Dominguez Creeks. The City Council and staff have reviewed and agreed with the CWCB's proposed instream flow appropriations. We especially support the Board in its appropriation of an instream flow water right to support wilderness management purposes in lieu of creating a federal right.

The City likewise supports the partnering of the State and Federal governments in the protection of the water resources of the creeks, based on seasonally available flows as recommended by the BLM, which support the aquatic, riparian and terrestrial life in and around the streams. While the protection of those aspects of the streams is important, we also appreciate your involvement of the landowners and water rights holders of record upstream of the Dominguez Wilderness Area. It is important that those persons have been informed of the potential ISF water rights and that concern is shown about their current and projected water supply needs and possible further development of those rights.

On behalf of the City Council we hope that your project surpasses its goals of environmental conservation and protection and that it serves as a continuing model of State and Federal cooperation. We will look forward to hearing of these successes.

Sincerely,



Teresa Coons
Mayor

pc: City Council
City Manager Laurie Kadrich
City Attorney John Shaver
Utilities and Street Systems Director Greg Trainor

GAIL SCHWARTZ

Senate District 5

State Capitol Building
200 E. Colfax Avenue
Denver, Colorado 80203
Capitol: 303-866-4871
Capitol FAX: 303-866-4543
Home: 970-925-3013

E-mail: gail.schwartz.senate@gmail.com



**Senate Chamber
State of Colorado
Denver**

Local Government and
Energy Committee
Chair

Agriculture & Natural
Resources Committee
Member

Committee on Legal Services
Member

Capital Development Committee
Member

May 10th, 2010

RECEIVED

MAY 14 2010

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

Colorado Water Conservation Board

Dear Colorado Water Conservation Board Members,

I am writing this letter in support of the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Gail Schwartz".

Gail Schwartz
Senator – District 5



DELTA COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS

COUNTY COURTHOUSE • 501 PALMER STREET • SUITE 227 • DELTA • COLORADO • 81416-1796

PHONE: (970) 874-2100 FAX: (970) 874-2114

www.deltacounty.com

Dist. 1: Lela J. "Jan" McCracken - Dist. 2: C. Bruce Hovde - Dist. 3: R. Olen Lund

May 10, 2010

RECEIVED

MAY 14 2010

Mr. Geoff Blakeslee, Chairman
Colorado Water Conservation Board
1313 Sherman Street, 7th Floor
Denver, CO 80203

Colorado Water Conservation Board

RE: Dominguez Wilderness Instream Flows

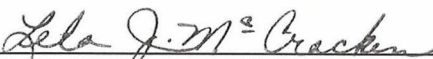
Dear Chairman Blakeslee:

The Board of Delta County Commissioners (Board) supports the Colorado Water Conservation Board's (CWCB) proposed instream flow appropriation for the Big and Little Dominguez Creeks that lie within the recently created Dominguez-Escalante National Conservation Area and Dominguez Canyon Wilderness Area. The Board particularly appreciates CWCB's reliance on Colorado water law and specifically Colorado's instream flow program as it developed its proposal for an instream flow appropriation.

The Board does wish to go on record stating that its support is based on the uniqueness of this instream flow appropriation proposal for this specific situation. The Board would not support this proposal necessarily becoming a precedent for future instream flow appropriations.

In this situation, the Board feels this filing will protect existing water rights, will provide for future water development and will meet federal legislative intent.

Sincerely,


Lela J. McCracken, Chair


C. Bruce Hovde, Vice Chair


R. Olen Lund, Commissioner

Cc: Christopher J. Treese, CWCB



Center for Native Ecosystems

Celebrating 10 years of saving endangered plants and wildlife in the Greater Southern Rockies.

May 11, 2010

Colorado Water Conservation Board
Attention: Linda Bassi
Stream and Lake Protection Section

Dear Linda and others,

I am writing to express my and Center for Native Ecosystems' support for your staff's (and the Bureau of Land Management's) recommendation to establish instream flow protection for Big and Little Dominguez Creeks in the newly established Dominguez Canyons wilderness. Natural water flows are an important part of the character of a wilderness area, and maintaining adequate instream flows in the Dominguez Canyon Wilderness Area is an appropriate application of this water rights tool.

In addition, natural flows are an important aspect of healthy aquatic and riparian habitats, and the wilderness area supports important examples of such habitat, supporting dozens of native species. Rare, imperiled, and otherwise sensitive species of fish, wildlife, and plants are especially dependent on naturally flowing waterways in unaltered settings such as wilderness areas.

Thank you for your attention and consideration.

Sincerely,

Josh Pollock
Conservation Director



**Colorado
Mountain
Club**

Front Range Office
710 10th St. 200
Golden, CO 80401
303.996.2746
303.279.9690 FAX

Grand Junction Office
1000 N. 9th St., #40
Grand Junction, CO 81501
970.618.1341
970.243.0413 FAX

Carbondale Office
PO Box 1348
Carbondale, CO 81623
970.618.1341

May 11, 2010

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

RECEIVED

MAY 11 2010

Colorado Water Conservation Board

Dear Colorado Water Conservation Board Members,

The Colorado Mountain Club enthusiastically supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

Founded in 1912, the Colorado Mountain Club boasts 8,000 members statewide. Our mission is to protect, preserve, and make readily available Colorado's world class backcountry. CMC was intimately involved in the creation and passage of the Dominguez Escalante National Conservation Area and leads trips to the Dominguez Canyon Wilderness Area every year.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Bryan Martin
Director of Conservation



RECEIVED

MAY 17 2010

Colorado Water Conservation Board

BOARD OF COUNTY COMMISSIONERS

May 11, 2010

Mr. Geoff Blakeslee, Chairman
Colorado Water Conservation Board
1313 Sherman Street, 7th Floor
Denver CO 80203

RE: Draft Dominguez-Escalante ISF Water Right


Dear Chairman and Board Members:

Montrose County has reviewed the April 7, 2010 report prepared by DiNatale Water Consultants, Inc., providing analysis of existing water use and projected future needs on private lands in the Big Dominguez and Little Dominguez drainage basins. The conclusion of the analysis is not surprising for our semi arid environment. The report finding insufficient direct flow water for the decreed condition seems typical of the Uncompahgre Plateau.

The proposed "carve out" or reservation of reasonably foreseeable future consumptive use water for an additional 101 ac-ft of storage seems reasonable; however; changes of use to the existing water rights should also be protected. Since the proposed In-Stream Flow (ISF) is not a quantified right, a change in use could subject the water right to being junior to the ISF, effectively eliminating it and growing the unquantified ISF.

Montrose County is supportive of the CWCB filing for the Dominguez-Escalante ISF water right in support of wilderness management purposes, provided; that the filing "carve out" the recommended 100 ac-ft of storage on Big Dominguez and 1 ac-ft on Little Dominguez, and in addition that the **ISF remains junior to all future changes to the existing water rights.**

Sincerely,



Ronald D. Henderson
Chairman

/bwsn

Copy: Linda Bassi, CWCB
Christopher Treese, CRWCD
Brian Wilson, Public Works

161 South Townsend Avenue • Montrose, CO 81401

Phone 970.249.7755 • FAX 970.249.7761



May 14, 2010

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

Dear Colorado Water Conservation Board Members,

San Juan Citizens Alliance enthusiastically supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

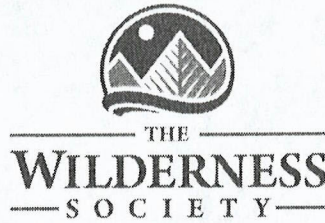
Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Megan Graham
Executive Director

1022½ Main Avenue
PO Box 2461
Durango, CO
81302

p 970.259.3583
f 970.259.8303



Colorado Water Conservation Board
1313 Sherman, Room 721
Denver 80203

Dear Colorado Water Conservation Board Members,

The Wilderness Society is very pleased to offer its strong and enthusiastic support for the instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness, as recommended by the CWCB staff and by the Bureau of Land Management. We encourage you to promptly approve the appropriate instream flow filings, as proposed by staff, to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important state-federal partnership toward providing that streamflow protection.

By establishing, in particular, instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the importance and priority of the state's instream flow protection program.

The technical details of this filing have been carefully calculated by the BLM, state staff, and the state's contractors and advisors both to meet the needs of the wilderness and to meet the state's standard for protecting the natural environment. This is a legitimate and effective proposal.

Thank you very much for your careful consideration of this innovative and fitting approach to water management and to wilderness protection. Please approve the Dominguez streams-protection recommendation.

Sincerely,

Steve Smith
Assistant Regional Director

Central Colorado Wilderness Coalition
PO Box 588
Monument, Colorado 80132
303-660-5849; jorcstan@juno.com

Colorado Water Conservation Board
1313 Sherman, Room 721
Denver, Colorado 80203

Dear Members of the Colorado Water Conservation Board,

Central Colorado Wilderness Coalition is a volunteer-run, regional wilderness research and advocacy group in eastern Colorado. In our work, we have come to understand the importance of instream flows in maintaining natural values in the areas we are endorsing for future wilderness designation. This is particularly true for several of our proposed wildernesses, which are lower elevation, mid-stream areas similar to the Dominguez Creeks. For example, current instream flow decrees in Badger Creek, tributary to the Arkansas River, help maintain an improving fishery and rare riparian plant community, among other values.

For this reason, CCWC enthusiastically supports the CWCB staff recommendation for instream flow protection for Big Dominguez Creek and Little Dominguez Creek, in the Dominguez Canyon Wilderness. We encourage you to promptly approve the appropriate instream flow filings to establish this important and timely protection.

In addition to protecting the uniquely preserved and natural riparian, habitat, wildlife, stream channel, and scenic values of Dominguez Canyon Wilderness, these instream flow filings represent an important opportunity for an important state-federal partnership in providing that streamflow protection.

By establishing instream flow rights to all available water in these wilderness streams (minus a carefully calculated allowance for future water development upstream of the wilderness), the State of Colorado will ensure the natural wonder of Dominguez Canyon endures long into the future, while preserving the state's authority and control regarding instream flow protection.

Thank you very much for your careful consideration of this innovative and fitting approach to water management. Please approve the Dominguez streams-protection recommendation.

Best wishes,

John Stansfield

John Stansfield, Coordinator
Central Colorado Wilderness Coalition