

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

1313 Sherman Street, Room 721
Denver, Colorado 80203
Phone: (303) 866-3441
Fax: (303) 866-4474
www.cwcb.state.co.us



TO: Colorado Water Conservation Board Members

Bill Ritter, Jr.
Governor

FROM: Jeff Baessler
Stream and Lake Protection Section

Mike King
DNR Executive Director

DATE: September 1, 2010

Jennifer L. Gimbel
CWCB Director

SUBJECT: **Agenda Item 8, September 14-15, 2010 – Board Meeting**
Stream and Lake Protection Section – 2010 San Miguel River Instream Flow Recommendation

Summary

This is an informational item intended to: 1) provide the Board with the background and status of the proposed San Miguel River instream flow recommendation; 2) provide an opportunity for additional public comment on the recommendation; and 3) provide an opportunity for Harris Engineering to update the Board on its latest efforts to assess future water supply needs in the basin and evaluate projects and management options to meet those future needs.

Background

A recommendation for an ISF right on the San Miguel River from Calamity Draw to the confluence with the Dolores River was first discussed with the Board at its February 2005 Instream Flow Workshop. However, a formal recommendation, in writing with specificity, was not received by Staff until its February 2008 workshop. Official Board and public notice for this recommendation was sent out in March 2008, November 2008, March 2009, November 2009, and March 2010.

Discussions with stakeholders regarding this recommendation began shortly after the March 2008 notice. At that time, Staff was also in the process of evaluating the donation of the Umetco water rights and discussed those rights with stakeholders. The intent of these discussions was to address issues concerning a new ISF appropriation, as well as how the donated rights could potentially be used by either the local communities or the ISF Program.

Staff has met with stakeholders in the field to discuss the recommendation and has also had numerous public meetings in Norwood, Naturita, and Telluride over the past three years, including meetings with the Montrose County Commissioners, San Miguel County Commissioners, and the San Miguel Water Task Force. In addition, the Southwestern Water Conservation District (“SWCD”) agreed to work with Montrose County, San Miguel County and others to address their concerns regarding the impact that an ISF water right could have with respect to future water development in the basin. In January 2010, SWCD and the counties submitted letters to the Board requesting that the recommendation be delayed to January 2011, to allow additional time for stakeholders to identify and quantify their future needs. Although these stakeholders requested a

delay, others sent letters stating that the ISF recommendation was unnecessary and that the science that supports the recommendations was flawed. As a result, these stakeholders asked the Board to reject the proposed San Miguel River ISF recommendation. In addition, a number of other stakeholders fully supported the recommendation and were disappointed about the prospect of an additional delay. They argued that the Board had already provided a one-year delay beyond the standard process for appropriating ISF rights and therefore should form its intent to appropriate at the January 2010 Board meeting.

After hearing public comment in January 2010, the Board approved a motion to delay declaring its intent to appropriate the instream flow recommendation until January 2011, as long as the stakeholders could demonstrate significant progress with regard to assessing projected water supply needs and evaluating projects and management options to meet future needs. At its May 2010 meeting, Harris Engineering provided the Board with an update on progress with various stakeholders and introduced the concept of a "Future Use Allocation Water Right" which SWCD would file for on behalf of the stakeholders before the end of 2010.

Since the May 2010 meeting, Staff has continued discussions with Harris Engineering and other stakeholders to address questions and explore opportunities to resolve all stakeholder issues. In July 2010, the Montrose County Commissioners contacted Staff to request a meeting to further discuss the County's concerns and to ask that the ISF recommendation be placed on the agenda for September 2010 to allow for formal public comment. Staff met with the County Commissioners in early August, and attended a public meeting in Norwood on September 7, 2010 held by the San Miguel Water Conservancy District to discuss the San Miguel River ISF recommendation.