

**Terms and Conditions Approved by CWCB
for Colorado River Instream Flow Appropriations**

- 1) This ISF is a unique ISF appropriation in that it is recommended by the consensus of a diverse stakeholder group under a local management plan designed to help protect resources of “outstanding remarkable value” that have been identified by the Bureau of Land Management and the United States Forest Service. This ISF is also unique because it involves the mainstem of the Colorado River, the relative size of that river, the current level of water supply development, the level of use for recreational fishing purposes, and the river’s overall importance to the State of Colorado. The terms of this appropriation are part of a compromise and settlement and are unique circumstances that shall not establish any precedent and shall not be construed as a commitment to include any specific findings of fact, conclusions of law or administrative practices in future appropriations.
- 2) Pursuant to section 37-92-102(3)(b), C.R.S. (2010), this instream flow appropriation shall be subject to the present uses or exchanges of water being made by other water users, pursuant to appropriation or practices in existence on the date of this appropriation. The CWCB will apply this provision if the proponent provides adequate documentation and verification of present uses and exchanges.
- 3) During any period identified by the Upper Colorado River Commission in a finding issued pursuant to Article VIII(d)(8) of the Upper Colorado River Basin Compact of 1948 for curtailment of Colorado River basin water uses within Colorado, which the State of Colorado has agreed to implement in a manner that impacts water diversions within Water Division 5, the CWCB agrees that this ISF water right will be administered in accordance with compact curtailment rules adopted by the State of Colorado that are then in effect, if any. If no such compact curtailment rules are then in effect, it is the intent of the CWCB that this instream flow right will not be administered during the period of any such compact curtailment. The ISF water right decreed herein shall be administered in accordance with any rules promulgated by the State Engineer related to Colorado River compact compliance. The ISF water right decreed herein is not intended to deprive the people of the state of Colorado of the beneficial use of those waters available by law and interstate compact.
- 4) The CWCB agrees not to file a statement of opposition to adjudications of water rights made after the date of this filing that: (1) result in depletions that do not exceed 100 acre feet; or (2) are for changes of water rights that do not seek to change more than 2500 acre feet, provided such changes of water rights do not involve an exchange through the subject ISF reaches; and (3) do not exceed a *total* 1% depletive effect on the instream flow right decreed herein in accordance with the *de minimis* Rule 8e of the Rules Concerning the Instream Flow and Natural Lake Level Program. This term and condition does not preclude the CWCB from enforcing this ISF appropriation in accordance with the priority system. The CWCB may also evaluate any water court applications made after the date of this filing to determine whether they are appropriate for application of the Injury with Mitigation Rule 8i.(3) of the Rules Concerning the Instream Flow and Natural Lake Level Program.
- 5) It is the intent of the CWCB that this ISF provide protection of the natural environment only to the extent authorized by state statute as against adjudications of water rights made after the date of this filing. The CWCB intends that the ISF water right decreed herein is not appropriate for consideration as a stream flow standard in other administrative or regulatory permitting contexts.