

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

John W. Hickenlooper
Governor

FROM: Linda Bassi
Jeff Baessler
Stream and Lake Protection Section

Mike King
DNR Executive Director

DATE: November 3, 2011

Jennifer L. Gimbel
CWCB Director

SUBJECT: **Agenda Item 7, November 15-16, 2011 Board Meeting - Stream and Lake Protection – Appropriation Date for Colorado River Instream Flow Recommendations in Water Division 5**

Summary

At its September 13, 2011 meeting, the CWCB took final action in appropriating instream flow (“ISF”) water rights on three segments of the Colorado River in Water Division 5 between Kremmling and Dotsero. However, the Board delayed claiming an appropriation date in order to ensure that these ISF water rights will be junior to any water court application filed in 2011 to implement the Colorado River Cooperative Agreement (“CRCA”). Denver Water, with Grand County and the CWCB as co-applicants for specific purposes, intend to file a water rights application for such implementation this month.

Staff Recommendation

Staff recommends that the Board claim July 12, 2011 as the appropriation date for these ISF water rights, but reserve the right to adjust the appropriation date, if necessary, to a date no later than December 31, 2011 to ensure that the ISF water rights are junior to the CRCA water rights.

Discussion

At its July 12, 2011 meeting, the CWCB formed its intent to appropriate ISF water rights on three segments of the Colorado River in Water Division 5 between Kremmling and Dotsero, as set forth on the attached Tabulation of Instream Flow Recommendations. All segments were uncontested, and at its September 13, 2011 meeting, the Board took final action on the recommendations under ISF Rule 5h. These ISF appropriations are a key component of a Management Plan Alternative to potential federal determinations that these Colorado River segments are “suitable” for designation under the Wild and Scenic River Act, and will protect Outstandingly Remarkable Values associated with the River.

Although the Board took final action on the recommendations, it did not claim an appropriation date because negotiations were ongoing with regard to implementation of the CRCA. However, the Board affirmed its intent to claim an appropriation date junior to that claimed in the CRCA water rights application. A July 12, 2011 appropriation date for the Colorado River ISF water rights is appropriate because Denver Water intends to claim a September 23, 2010 appropriation date for the potentially impacted CRCA water rights. In the event that during the water court process, the CRCA water rights' appropriation date is adjusted to a later date in 2011, the Board may need to adjust the ISF water rights' appropriation date to a date no later than December 31, 2011 to maintain those rights' junior priority.

Staff Recommendation

Staff recommends that the Board claim July 12, 2011 as the appropriation date for these ISF water rights, but reserve the right to adjust the appropriation date, if necessary, to a date no later than December 31, 2011 to ensure that the ISF water rights are junior to the CRCA water rights.



Colorado Water Conservation Board

Instream Flow Tabulation - Streams



Water Division 5

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
10/5/A-001	Colorado River	Colorado headwaters	Grand Eagle	confl Blue River at lat 40 02 33N long 106 23 53W	confl Piney River at lat 39 51 19N long 106 38 31W	23.70	Kremmling	600 (5/15 - 7/31)	
							McCoy	750 (8/1 - 9/15)	
							Radium	500 (9/16 - 5/14)	
							Sheephorn Mountain State Bridge		
10/5/A-002	Colorado River	Colorado headwaters	Eagle	confl Piney River at lat 39 51 19N long 106 38 31W	confl Cabin Creek at lat 39 52 29N long 106 53 36W	20.80	Blue Hill	650 (5/15 - 7/31)	
							Burns North	800 (8/1 - 9/15)	
							Burns South	525 (9/16 - 5/14)	
							McCoy State Bridge		
10/5/A-003	Colorado River	Colorado headwaters	Eagle	confl Cabin Creek at lat 39 52 29N long 106 53 36W	pt immed u/s of confl Eagle River at lat 39 38 48N long 107 03 30W	25.00	Burns South	900 (5/15 - 6/15)	
							Dotsero	800 (6/16 - 9/15)	
							Sugarloaf Mountain	650 (9/16 - 5/14)	

Totals for Water Division 5	Total # of Stream Miles =	69.5
	Total # of Appropriations =	3
<i>(Totals do not include donated/acquired water rights)</i>		

Report Totals	Total # of Stream Miles =	69.5
	Total # of Appropriations =	3
<i>(Totals do not include donated/acquired water rights)</i>		