

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: Jeff Baessler
Stream and Lake Protection Section

Mike King
DNR Executive Director

DATE: March 6, 2012

Jennifer L. Gimbel
CWCB Director

SUBJECT: **Agenda Item 25, March 20-21, 2012, Board Meeting**
Stream and Lake Protection Section – New Appropriation Recommendations
in Water Division 1.

Introduction and Staff Recommendation

This memo provides an overview of the technical analyses that were performed by both the recommending entities and CWCB staff to provide the Board with sufficient information to declare its intent to appropriate in accordance with the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (“ISF Rules”). Staff’s detailed analysis of each stream, contained in the Instream Flow Recommendation Reports attached to this memo, provides the technical basis for each appropriation.

Staff recommends that, pursuant to ISF Rule 5d., the Board declare its intent to appropriate an ISF water right on each stream segment listed on the attached Tabulation of Instream Flow and Natural Lake Level Recommendations, and direct Staff to publicly notice the Board’s declaration of its intent to appropriate.

Background

Pursuant to ISF Rule 5d., staff is requesting the Board to declare its intent to appropriate instream flow water rights on the stream segments identified in the attached table. Staff has reviewed each proposed stream segment to ensure that for each instream flow recommendation, the data set is complete and standard methods and procedures were followed. In addition, staff has completed its water availability studies. Staff has identified 9 stream segments in Water Division 3 for which sufficient information has been compiled and analyses performed upon which the Board can base its intent to appropriate. One segment is located in both Gilpin and Jefferson Counties within the Clear Creek watershed. The other 8 segments are located in Larimer County in the Laramie River Watershed.

Technical Investigations

Staff’s executive summary and technical analysis of each stream are contained in the Instream Flow Recommendation Reports and form the basis for staff’s recommendations. In addition to the reports, a CD containing the scientific data and technical analyses performed by the recommending entity is located in the front pocket of the Board notebook.

Natural Environment Studies

The Bureau of Land Management (BLM) and Colorado Parks and Wildlife (CPW) have conducted field surveys of the natural environment resources on these streams and have found natural environments that can be preserved. To quantify the resources and to evaluate instream flow requirements, the recommending entities have collected biologic and hydraulic data that were analyzed by CWCB staff. Based on the results of these analyses, staff prepared recommendations of the amount of water necessary to preserve the natural environment to a reasonable degree for each of the streams listed on the attached Tabulation of Instream Flow and Natural Lake Level Recommendations.

Water Availability Studies

Staff has conducted an evaluation of water availability for the streams listed. To determine the amount of water physically available for the Board's appropriations, staff analyzed available USGS gage records, available streamflow models, and/or utilized appropriate standard methods to develop a hydrograph of median and/or mean daily flows for each stream flow recommendation. In addition, staff analyzed the water rights tabulation for each stream and has consulted with the Division Engineer's Office to identify any potential water availability problems. Based upon its analyses, staff has determined that water is available for appropriation on each stream to preserve the natural environment to a reasonable degree without limiting or foreclosing the exercise of valid water rights.

Instream Flow Rule 5d.

Rule 5d. provides that the Board may declare its intent to appropriate ISF water rights after reviewing Staff's recommendations for the proposed appropriations. Rule 5d. also sets forth the activities that take place after the Board declares its intent that initiate the public notice and comment procedure for the ISF appropriations. Specifically,

5d. Board's Intent to Appropriate. Notice of the Board's potential action to declare its intent to appropriate shall be given in the January Board meeting agenda and the Board will take public comment regarding its intent to appropriate at the January meeting.

- (1) After reviewing Staff's ISF recommendations for proposed ISF appropriations, the Board may declare its intent to appropriate specific ISF water rights. At that time, the Board shall direct the Staff to publicly notice the Board's declaration of its intent to appropriate.
- (2) After the Board declares its intent to appropriate, notice shall be published in a mailing to the ISF Subscription Mailing Lists for the relevant water divisions and shall include:
 - (a) A description of the appropriation (e.g. stream reach, lake location, amounts, etc.);
 - (b) Availability (time and place) for review of Summary Reports and Investigations Files for each recommendation; and,
 - (c) Summary identification of any data, exhibits, testimony or other information in addition to the Summary Reports and Investigations Files supporting the appropriation.
- (3) Published notice shall also contain the following information:
 - (a) The Board may change flow amounts of contested ISF appropriations based on information received during the public notice and comment period.
 - (b) Staff will maintain, pursuant to Rule 5e.(3), an ISF Subscription Mailing List for each water division composed of the names of all persons who have sent notice to the

Board Office that they wish to be included on such list for a particular water division. Any person desiring to be on the ISF Subscription Mailing List(s) must send notice to the Board Office.

- (c) Any meetings held between Staff and members of the public will be open to the public. Staff may provide Proper Notice prior to any such meetings and may provide notice to persons on the ISF Subscription Mailing List(s).
 - (d) Any Notice to Contest must be received at the Board office no later than March 31st, or the first business day thereafter. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than April 30th, or the first business day thereafter.
 - (e) Staff will announce its Final Staff ISF Recommendation concerning contested appropriations at the September Board meeting and will send notice of the Final Staff Recommendation to all persons on the Contested Hearing Mailing List.
 - (f) The Board may take final action on any uncontested ISF appropriations at the May Board meeting.
- (4) After the Board declares its intent to appropriate, notice of the Board's action shall be mailed within five working days to the County Commissioners of the county(ies) in which the proposed reach or lake is located.

Attachment



Colorado Water Conservation Board

Instream Flow Tabulation - Streams



Water Division 1

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
12/1/A-005 (increase)	Fish Creek	Upper Laramie	Larimer	confl unnamed tributary at lat 40 56 48N long 106 7 28W	confl Johnson Creek at lat 40 58 56N long 106 04 36W	4.31	Old Roach	0.2 (11/1 - 4/30) 2.9 (5/1 - 7/15) 0.9 (7/16 - 10/31)	
12/1/A-001	Forrester Creek	Upper Laramie	Larimer	headwaters in the vicinity of lat 40 51 44N long 106 04 38W	hdgt Forrester Creek Ditch at lat 40 55 10N long 105 58 49W	6.87	Crazy Mountain Old Roach Shipman Mountain	0.7 (11/1 - 4/30) 1.7 (5/1 - 8/31) 1.1 (9/1 - 10/31)	
12/1/A-002	Grace Creek	Upper Laramie	Larimer	confl NF & SF Grace Creek at lat 40 54 56N long 106 03 00W	hdgt Grace Creek Ditch at lat 40 55 46N long 106 00 40W	2.46	Old Roach	2 (11/1 - 4/30) 5.5 (5/1 - 8/15) 3.6 (8/16 - 10/31)	
12/1/A-006	Johnson Creek	Upper Laramie	Larimer	confl unnamed tributary at lat 40 59 22N long 106 06 12W	confl Fish Creek at lat 40 58 56N long 106 04 36W	1.69	Old Roach	1.6 (11/1 - 3/31) 2.3 (4/1 - 10/31)	
12/1/A-007	Johnson Creek	Upper Laramie	Larimer	confl Fish Creek at lat 40 58 56N long 106 04 36W	confl Pole Creek at lat 40 59 25N long 106 03 26W	1.33	Old Roach	1.6 (11/1 - 3/31) 3.8 (4/1 - 10/31)	
12/1/A-008 (increase)	Johnson Creek	Upper Laramie	Larimer	confl Pole Creek at lat 40 59 25N long 106 03 26W	CO-WY stateline at lat 40 59 50N long 106 03 07W	0.64	Old Roach	1.8 (4/1 - 10/31)	
12/1/A-009	North Clear Creek	Clear Creek	Jefferson Gilpin	confl Chase Gulch at lat 39 48 14N long 105 29 48W	confl Clear Creek at lat 39 44 46N long 105 23 53W	7.68	Black Hawk Squaw Pass	2.25 (11/1 - 3/14) 3.75 (3/15 - 10/31)	
12/1/A-004 (increase)	Pole Creek	Upper Laramie	Larimer	headwaters in the vicinity of lat 40 54 57N long 106 07 26W	confl Johnson Creek at lat 40 59 25N long 106 03 26W	7.34	Old Roach	0.25 (11/1 - 4/30) 1.25 (5/1 - 8/15) 0.8 (8/16 - 10/31)	

Instream Flow Tabulation - Water Division 1

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
12/1/A-003 (increase)	Stuck Creek	Upper Laramie	Larimer	headwaters in the vicinity of lat 40 52 54N long 106 07 16W	hdgt Warren Ditch at lat 40 59 17N long 106 00 45W	10.89	Old Roach	1.1 (11/1 - 4/30) 2 (5/1 - 10/31)	

Totals for Water Division 1	Total # of Stream Miles =	43.21
	Total # of Appropriations =	9
<i>(Totals do not include donated/acquired water rights)</i>		

Report Totals	Total # of Stream Miles =	43.21
	Total # of Appropriations =	9
<i>(Totals do not include donated/acquired water rights)</i>		