

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 J. Bassi, Chief
Stream and Lake Protection Section

Mike King
DNR Executive Director

DATE: November 1, 2012

Jennifer L. Gimbel
CWCB Director

SUBJECT: **Agenda Item 18c, November 13-14, 2012 Board Meeting**
Stream and Lake Protection – Instream Flow Acquisitions – Statutory
Language Change

Introduction

Section 37-60-123.7(1), C.R.S., enacted in 2008, authorizes a continuous appropriation of \$1,000,000 to the CWCB annually for the costs of water acquisitions for instream flow (“ISF”) use. Staff proposes amending section 37-60-123.7(1) to allow these funds to be used for water acquisitions that will *improve* the natural environment to a reasonable degree. Currently, the statute limits use of the funds to paying for the costs of water acquisitions that will *preserve* the natural environment to a reasonable degree.

Staff Recommendation

Staff recommends that the Board authorize the inclusion of a section in the 2013 Projects Bill that amends section 37-60-123.7(1), C.R.S. to allow use of the funds authorized therein for the costs of water acquisitions that will improve the natural environment to a reasonable degree.

Discussion

This proposed statutory amendment would give the CWCB flexibility in leveraging its funds with those of its partners when acquiring water for ISF use. Many permanent and long-term water acquisitions can be used to both preserve and improve the natural environment. Examples of such water acquisitions include: (1) Carbon Lake Ditch on Mineral Creek and Big Horn Gulch (Water Division 7, 2004); (2) Peabody Ditch on Boulder Creek and the Blue River (Water Division 5, 2005); (3) Stapleton Brothers Ditch on Maroon Creek and the Roaring Fork River (Water Division 5, 2010, case pending); and (4) Breem Ditch on Washington Gulch (Water Division 4, 2010, case pending). CWCB staff proposes including this amendment in the Projects Bill, since it amends a CWCB statute and the original authorization for these funds was made in the 2008 Projects Bill (HB 08-1346). The proposed change would read as follows, with added language in capital letters:

(1) In addition to any other moneys appropriated from the Colorado water conservation board construction fund, up to one million dollars in the fund are continuously appropriated to the board annually to pay for the costs of acquiring water, water rights, and interests in water for instream flow use. The total amount of such continuous

appropriation that is unencumbered in any fiscal year shall not exceed one million dollars. The primary priority for expenditures of these revenues shall be the costs of water acquisitions for existing or new instream flow water rights to preserve OR IMPROVE the natural environment to a reasonable degree. These revenues also may be used in limited circumstances for the costs of water acquisitions to preserve the natural environment of species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species, support wild and scenic alternative management plans, or provide federal regulatory certainty.