



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Jeff Baessler
Stream and Lake Protection Section

DATE: May 6, 2014

SUBJECT: **Agenda Item 21, May 21-22, 2014 Board Meeting**
2014 Instream Flow Appropriations

Introduction and Staff Recommendation

At its January 28, 2014 meeting, the CWCB formed its intent to appropriate instream flow (“ISF”) water rights on 17 new stream segments in Water Divisions 1, 4 and 5. All segments were uncontested and are ready for final Board action pursuant to Rule 5h. of the Rules Concerning Colorado’s Instream Flow and Natural Lake Level Program (“ISF Rules”).

Staff requests that the Board make the following determinations and take the following actions on each of the appropriations identified in the attached table, based on the information contained in this memo as well as the information presented by staff both in writing and orally at the January 28, 2014 Board meeting.

(1) Determine, pursuant to section 37-92-102(3), C.R.S. (2013), and based upon the recommendations of Colorado Parks and Wildlife (CPW) and the Bureau of Land Management (BLM) addressing biological needs, flow rates, reaches and time periods, and a review of the data and other information presented by Staff in this memo and orally, that for each ISF appropriation in the amounts identified in the attached table:

- (a) There is a natural environment that can be preserved to a reasonable degree with the recommended water rights, if granted;
- (b) The natural environment will be preserved to a reasonable degree by the water available for the recommended appropriations; and
- (c) Such natural environment can exist without material injury to water rights.

(2) Pursuant to ISF Rule 5f., establish January 28, 2014 as the appropriation date for these water rights.

(3) Direct staff to request the Attorney General's Office to file the necessary water rights applications.



Discussion

On January 28, 2014, the CWCB formed its intent to appropriate ISF water rights on 17 stream segments in Water Divisions 1, 4 and 5. All segments, shown on the attached table, are being recommended by staff for final action. The BLM and CPW recommended these streams for inclusion into the CWCB's Instream Flow and Natural Lake Level Program. Pursuant to ISF Rule 5h., these stream segments, which were not contested, are being recommended to the Board for Final Action.

Technical Investigations

The Board was provided detailed information regarding all field data, studies and analyses for each stream segment at its January 28, 2014 Board meeting.

Natural Environment Studies

The BLM and CPW conducted field surveys on these streams and found natural environments that can be preserved to a reasonable degree. To quantify the resources and to evaluate instream flow requirements, BLM and CPW staff collected biologic and hydraulic data, and the CWCB staff reviewed and analyzed this data. Based on the results of these reviews and analyses, the CWCB staff prepared recommendations for the amount of water necessary to preserve the natural environment to a reasonable degree for each of the streams.

Water Availability Studies

The CWCB staff has conducted evaluations of water availability for these streams. To determine the amount of water physically available for the Board's appropriations, staff analyzed available USGS gage records, available streamflow models, and utilized appropriate standard methods to develop a hydrograph of mean daily flows for each recommendation. Staff also relied upon the flow measurements made as part of the field survey, to further verify the amount of water physically available in these streams. In addition, staff analyzed the water rights tabulation and consulted with the Division Engineer's Office in each water division to identify any potential water availability problems. Based upon its analysis, 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 existing water rights.

Relevant Instream Flow Rules

5f. Date of Appropriation. The Board may select an appropriation date that may be no earlier than the date the Board declares its intent to appropriate. The Board may declare its intent to appropriate when it concludes that it has received sufficient information that reasonably supports the findings required in Rule 5i.

5h. Final Board Action on an ISF Recommendation. The Board may take final action on any uncontested Staff Recommendation(s) at the May Board meeting or any Board meeting thereafter. If a Notice to Contest has been filed, the Board shall proceed under Rule 5j-5q.

5i. Required Findings. Before initiating a water right filing to confirm its appropriation, the Board must make the following determinations:

(1) Natural Environment. That there is a natural environment that can be preserved to a

reasonable degree with the Board's water right if granted.

- (2) Water Availability. That the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made.
- (3) Material Injury. That such environment can exist without material injury to water rights.

These determinations shall be subject to judicial review in the water court application and decree proceedings initiated by the Board, based on the Board's administrative record and utilizing the criteria of section 24-4-106(6) and (7), C.R.S. (2013).

Attachments



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

Instream Flow Tabulation - Water Division 1

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
13/1/A-002	Shell Creek	Upper Laramie	Larimer	headwaters in the vicinity of lat 40 55 11N long 105 51 03W	BLM boundary at lat 40 58 53N long 105 52 49W	6.25	Crazy Mountain Sand Creek Pass	1 (11/1 - 3/31) 1.1 (4/1 - 10/31)	1/28/2014

Totals for Water Division 1	Total # of Stream Miles =	6.25
	Total # of Appropriations =	1
	<i>(Totals do not include donated/acquired water rights)</i>	

Instream Flow Tabulation - Water Division 4

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
14/4/A-004	East Creek	Lower Gunnison	Mesa	confl North East Creek at lat 38 55 06N long 108 29 57W	hdgt East Creek Ditch at lat 38 58 27N long 108 27 27W	4.94	Whitewater	1.6 (3/15 - 6/30) 0.25 (7/1 - 3/14)	1/28/2014
14/4/A-007	East Creek	Lower Gunnison	Mesa	East Creek Ditch hdgt at lat 38 58 27N long 108 27 39W	confl Gunnison River at lat 38 58 35N long 108 27 16W	0.37	Whitewater	1.6 (3/15 - 5/31)	1/28/2014
13/4/A-001	Granite Creek	Lower Dolores	Mesa	confl two unnamed tributaries at lat 38 50 57N long 108 57 43W	Colorado-Utah border at lat 38 49 49N long 109 03 21W	5.79	Steamboat Mesa Two V Basin	2.7 (4/1 - 6/30) 0.5 (7/1 - 3/31)	1/28/2014
14/4/A-005 (increase)	Hot Springs Creek	Tomichi Creek	Gunnison	outlet Hot Springs Reservoir at lat 38 30 47N long 106 32 29W	LL Bush Ditch No. 4 hdgt at lat 38 29 23N long 106 35 09W	3.46	Doyleville Pitkin	2.4 (5/1 - 7/21)	1/28/2014
14/4/A-001 (increase)	Oh-Be-Joyful Creek	East-Taylor	Gunnison	confl unnamed tributary at lat 38 54 25N long 107 03 21W	confl Slate River at lat 38 54 37N long 107 01 49W	1.66	Oh-Be-Joyful	3 (4/1 - 4/30) 14 (5/1 - 7/15) 3 (7/16 - 8/15)	1/28/2014
14/4/A-002 (increase)	Slate River	East-Taylor	Gunnison	confl Poverty Gulch at lat 38 56 46N long 107 03 40W	confl Oh-Be-Joyful Creek at lat 38 54 37N long 107 01 49W	3.69	Oh-Be-Joyful	30 (5/1 - 7/15)	1/28/2014
14/4/A-003 (increase)	Slate River	East-Taylor	Gunnison	confl Oh-Be-Joyful Creek at lat 38 54 37N long 107 01 49W	confl Coal Creek at lat 38 52 38N long 106 58 39W	5.63	Gothic Oh-Be-Joyful	45 (5/1 - 7/15)	1/28/2014
12/4/A-001	Ute Creek	Lower Dolores	Mesa	headwaters in the vicinity of lat 38 42 23N long 108 47 16W	confl West Creek at lat 38 43 29N long 108 54 36W	7.87	Gateway Pine Mountain	2 (4/1 - 6/15) 0.3 (6/16 - 3/31)	1/28/2014

Totals for Water Division 4

Total # of Stream Miles = 33.41

Total # of Appropriations = 8

(Totals do not include donated/acquired water rights)

Instream Flow Tabulation - Water Division 5

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
12/5/A-001	Beaver Creek	Colorado Headwaters-Plateau	Garfield	headwaters in the vicinity of lat 39 22 48N long 107 51 58W	Dame Ditch hdgt at lat 39 28 06N long 107 49 06W	8.11	North Mamm Peak	0.7 (12/1 - 4/30) 4.75 (5/1 - 6/30) 2.85 (7/1 - 7/31) 1 (8/1 - 11/30)	1/28/2014
12/5/A-002	Beaver Dam Creek	Colorado Headwaters-Plateau	Mesa	headwaters in the vicinity of lat 39 21 29N long 107 26 55W	confl East Divide Creek at lat 39 21 52N long 107 28 22W	1.60	Quaker Mesa	0.14 (11/1 - 4/30) 0.9 (5/1 - 8/31) 0.35 (9/1 - 10/31)	1/28/2014
12/5/A-003	East Divide Creek	Colorado Headwaters-Plateau	Mesa Garfield	confl Gennings Creek at lat 39 20 25N long 107 28 24W	confl Camp Creek at lat 39 23 03N long 107 28 32W	3.49	Center Mountain Quaker Mesa	1.4 (4/1 - 4/15) 4.8 (4/16 - 6/30) 1.5 (7/1 - 7/15) 1.2 (7/16 - 7/30) 0.3 (8/1 - 3/31)	1/28/2014
12/5/A-004	East Divide Creek	Colorado Headwaters-Plateau	Garfield	confl Camp Creek at lat 39 23 03N long 107 28 32W	confl June Creek at lat 39 26 03N long 107 34 51W	9.45	Center Mountain Gibson Gulch	3 (4/1 - 4/15) 7.2 (4/16 - 6/30) 3 (7/1 - 7/31) 1.1 (8/1 - 3/31)	1/28/2014
14/5/A-003	East Fork Parachute Creek	Parachute Creek-Roan Creek	Garfield	confl Bull Gulch at lat 39 33 48N long 108 00 53W	BLM boundary at lat 39 34 34N long 108 01 52W	1.28	Forked Gulch	5 (4/15 - 6/30) 0.65 (7/1 - 4/14)	1/28/2014
14/5/A-004	Left Fork Carr Creek	Parachute Creek-Roan Creek	Garfield	headwaters in the vicinity of lat 39 35 26N long 108 36 52W	Franklin Ditch # 2 hdgt at lat 39 33 25N long 108 30 32W	6.43	Henderson Ridge	0.75 (11/1 - 3/31) 2 (4/1 - 8/31) 1 (9/1 - 10/31)	1/28/2014
12/5/A-006	Meadow Creek	Colorado Headwaters-Plateau	Garfield	outlet of Meadow Creek Reservoir at lat 39 48 25N long 107 32 44W	confl Main Elk Creek at lat 39 42 19N long 107 34 05W	8.21	Deep Creek Point Meadow Creek Lake	1.3 (10/1 - 3/31) 2.1 (4/1 - 9/30)	1/28/2014

Instream Flow Tabulation - Water Division 5

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
12/5/A-005	West Divide Creek	Colorado Headwaters-Plateau	Mesa	confl Little Beaver Creek at lat 39 16 14N long 107 27 31W	confl Mosquito Creek at lat 39 18 26N long 107 33 43W	8.11	Quaker Mesa Flatiron Mountain	4.2 (3/15 - 4/15) 14.1 (4/16 - 7/15) 4.2 (7/16 - 7/31) 1.14 (8/1 - 3/14)	1/28/2014

Totals for Water Division 5	Total # of Stream Miles =	46.68
	Total # of Appropriations =	8
<i>(Totals do not include donated/acquired water rights)</i>		

Report Totals	Total # of Stream Miles =	86.34
	Total # of Appropriations =	17
<i>(Totals do not include donated/acquired water rights)</i>		