



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Jeff Baessler, Deputy Section Chief

DATE: May 21, 2015

AGENDA ITEM: 15. Uncontested 2015 Instream Flow and Natural Lake Level Appropriations

Background

On January 26, 2015, the CWCB formed its intent to appropriate ISF water rights on 10 stream segments and 4 natural lakes in Water Divisions 1, 4, 5 and 6. The Bureau of Land Management (BLM), Colorado Parks and Wildlife (CPW) and the City of Fort Collins recommended these streams and lakes for inclusion into the CWCB's Instream Flow and Natural Lake Level Program. Pursuant to ISF Rule 5h., these uncontested stream segments and lakes, described on the attached tables 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 and natural lake at its January 26, 2015 Board meeting.

Natural Environment Studies

The recommending entities conducted field surveys on these streams and lakes and found natural environments that can be preserved to a reasonable degree. To quantify the resources and to evaluate instream flow and natural lake level requirements, the recommenders 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 and lakes.

Water Availability Studies

The CWCB staff has conducted evaluations of water availability for these streams and lakes. To determine the amount of water physically available for the Board's stream 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. To determine the amount of water physically available for the Board's lake appropriations, standard survey methods were used to determine each lake's surface water elevation, surface area and volume.

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 and lake 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. (2014).

Staff recommendation

Staff requests that the Board make the following determinations and take the following actions on each of the appropriations identified in the attached tables, based on the information contained in this memo as well as the information presented by staff both in writing and orally at the January 26, 2015 Board meeting.

- (1) Pursuant to section 37-92-102(3), C.R.S. (2014) and based upon: (1) the recommendations of CPW, City of Fort Collins and the BLM addressing biological needs, flow rates/volume, reaches and time periods, and (2) a review of the data and other information presented by Staff in this memo and orally, determine for each instream flow and natural lake level appropriation in the amounts identified in the attached tables that:



- (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 26, 2015 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.

Attachments

