



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

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**TO:** Colorado Water Conservation Board Members

**FROM:** Jeff Baessler, Deputy Chief, Stream and Lake Protection Section  
Linda Bassi, Chief, Stream and Lake Protection Section

**DATE:** July 15-16, 2015 Board Meeting

**AGENDA ITEM:** 23. Request for Cancellation of Intent to Appropriate Instream Flow  
Water Rights On Yellow Creek

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**Background:**

On January 26, 2015, the CWCB declared its intent to appropriate instream flow (ISF) water rights on two reaches of Yellow Creek in Water Division 6. On March 31, 2015, Exxon Mobil Corporation filed a Notice to Contest the Board's ISF appropriations on these stream reaches. Notices of Party Status were subsequently filed by Conservation Colorado Education Fund, Western Resource Advocates, Mountain Water LLC, and TerraCarta Energy Resources, LLC. Encana Oil and Gas filed a Notice of Contested Hearing Participant Status.

**Discussion:**

CWCB staff and the Attorney General's Office met with counsel for Exxon Mobil Corporation, Mountain Water LLC, and Encana Oil and Gas to discuss their issues and concerns regarding the Board's appropriation. In an attempt to address some of the contesting parties' concerns, staff and the BLM (recommender of this ISF appropriation) decided to collect additional data on Yellow Creek. Initial results of those data collection efforts indicated that the BLM may modify the previously recommended flow rates. Data collection will continue this summer. The BLM intends to submit a revised ISF recommendation on Yellow Creek. Staff could potentially re-notice the Yellow Creek ISF recommendations in November 2015 and request the Board declare its intent to appropriate the revised ISF recommendations on Yellow Creek in January 2016.

**Staff recommendation:** Staff recommends that the Board cancel its intent to appropriate instream flow water rights on the following reaches of Yellow Creek in Water Division 6:

- Yellow Creek Upper (confluence with Barcus Creek to confluence with Lambert Springs)
- Yellow Creek Lower (confluence with Lambert Creek to confluence with White River)

