
**COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO**

IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER DIVISION 5:
East Hawxhurst Creek CWCB ID 16/5/A-002
and
West Hawxhurst Creek CWCB ID 16/5/A-003

**LARAMIE ENERGY, LLC
NOTICE TO CONTEST**

Laramie Energy, LLC ("Laramie Energy"), by and through its attorneys, Balcomb & Green, P.C., respectfully submits this Notice to Contest for the proposed East Hawxhurst Creek and West Hawxhurst Creek Instream Flow appropriations, pursuant to Rule 5k. of the Rules Concerning Instream Flow and Natural Lake Level Program, 2 C.C.R. 408-2. Laramie Energy notes, however, that it is seeking a discussion with Colorado Water Conservation Board (CWCB) staff concerning possible conditions and agreements that would protect Laramie Energy's water rights and, if successful, would resolve issues raised in this Notice.

I. Identity of Party

Laramie Energy, LLC
c/o James Hohenstein
1401 17th Street, Suite 1400
Denver, CO 80202
(303) 339-4408

Please direct all notices, pleadings and correspondence to Laramie Energy's attorneys:

Sara M. Dunn, Esq. Phone: 970-928-3467 Email: sarad@balcombgreen.com
Erika Gibson, Esq. Phone: 970-945-6546 Email: erika@balcombgreen.com
Balcomb & Green, P.C.
Post Office Drawer 790
Glenwood Springs, CO 81602

II. Identity of Proposed Instream Flow Appropriations at Issue

Case No.	Stream	Watershed	County	Upper Terminus	Lower Terminus.	Length (miles)	Amount (c.f.s.)
16/5/A-002	East Hawxhurst Creek	Colorado Headwater -Plateau	Mesa	Outlet of McCurry Reservoir UTM North: 4360638.30 UTM East: 251782.92	Confl. with West Hawxhurst Creek UTM North: 4353102.99 UTM East: 248989.35	5.75	1.70 (4/15-6/30) 0.46 (7/1 – 4/14)
16/5/A-003	West Hawxhurst Creek	Colorado Headwater -Plateau	Mesa	Headwaters of West Hawxhurst Creek UTM North: 4361117.90 UTM East: 250123.61	Confl. with East Hawxhurst Creek UTM North: 4353102.99 UTM East: 248989.35	5.57	1.60 (4/15 – 6/30) 0.56 (7/1 – 4/14)

III. Reason for Contesting

Laramie Energy has water rights in both the East Hawxhurst Creek basin and the West Hawxhurst Creek Basin including McCurry Reservoir on East Hawxhurst Creek and the Hawxhurst Smalley Ditch on West Hawxhurst Creek whose historical operations may be affected by the proposed instream flows. Laramie Energy has had an initial discussion with CWCB staff regarding its concerns and will continue this dialogue; however, if such efforts should fail, Laramie Energy will participate formally in the appropriation proceedings in order to protect its interests and ensure that the factual and legal criteria for the proposed appropriation have been met.

IV. Contested Facts

Laramie Energy identifies the following contested facts, to the extent known at this time, and reserves the right to raise additional issues prior to or at a hearing in this matter.

- A. Whether the proposed appropriations are greater than the statutorily required "minimum stream flows" to preserve the natural environment to a reasonable degree." C.R.S. § 37-92-102(3).
- B. Whether there is "natural environment" that can be preserved to a reasonable degree with the proposed appropriations. C.R.S. § 37-92-102(3)(c).
- C. Whether the water available for the proposed appropriations will preserve the natural environment "to a reasonable degree." C.R.S. § 37-92-102(3)(c).
- D. Whether such environment can exist "without material injury" to water rights. C.R.S. § 37-92-102(3)(c).
- E. Whether the proposed appropriations would protect the prospective uses of water made by Laramie Energy "pursuant to appropriation or practices" that exist as of the date of the ISF appropriations, whether or not such uses have been previously confirmed by court order or decree. C.R.S. § 37-92-102(3)(b).

V. Data on Which Laramie Energy Will Rely

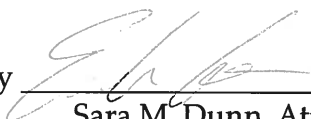
Laramie Energy identifies the following data, to the extent known at this time, and reserves the right to present additional data, documents and testimony prior to or at a hearing in this matter.

- A. All data in the CWCB's record, and R2Cross data in the files of the Bureau of Land Management, used to support the proposed appropriation. Such information will include, but will not be limited to the following:
 - Field data sheets for instream flow determinations as completed by the field investigators.

- Field data discharge notes that document stream width, depth, velocity, grassline (bankfull width) and water surface elevations collected during the time of the investigation.
 - Data related to the CWCB's cross section data analysis including plots of the study site.
 - R2Cross matrix table used to display relationships of wetted perimeter, average velocity, average depth and calculated streamflow based upon "Constant Manning's n".
 - R2Cross matrix table used to display relationships of wetted perimeter, average velocity, average depth and calculated streamflow based upon "Jarrett Variable Manning's n".
 - Survey notes use to define the stream slope through the study reach.
 - Photographs taken of the study site including photographs of upstream and downstream reaches.
- B. Impacts on appropriations and water practices in existence as of the date of the ISF appropriation on East and West Hawxhurst Creeks.
- C. Necessary minimum instream flow requirements to protect the fishery and related aquatic species to a reasonable degree.
- D. Water rights information from the Colorado Division of Water Resources (DWR).
- E. Streamflow records from the USGS surface-water database and the DWR streamflow database.

Respectfully submitted this 31st day of March, 2016.

BALCOMB & GREEN, P.C.

By 
 Sara M. Dunn, Atty. Reg. No. 30227
 Erika Gibson, Atty. Reg. No. 48923
 Attorneys for Laramie Energy, LLC