



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

1313 Sherman Street  
Denver, CO 80203

P (303) 866-3441  
F (303) 866-4474

John Hickenlooper, Governor

Robert Randall, DNR Executive Director

Rebecca Mitchell, CWCB Director

**TO:** Colorado Water Conservation Board Members

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

**DATE:** January 11, 2018

**AGENDA ITEM:** 12. Instream Flow Appropriations in Water Divisions 3, 4, 5, and 6

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### Introduction

This memo provides an overview of the technical analyses performed by both the recommending entities and CWCB staff to provide the Board with sufficient information to declare its intent to appropriate instream flow (ISF) water rights in accordance with the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (ISF Rules). An executive summary for each stream recommendation with appendices of the supporting scientific data, which provides the technical basis for each appropriation, has been provided to the Board separately.

### Staff Recommendation

Staff recommends that, pursuant to ISF Rule 5d., the Board declare its intent to appropriate an ISF water right on each stream segment listed on the attached Tabulation of Instream Flow Recommendations, and direct Staff to publicly notice the Board's declaration of its intent to appropriate.

### Background

Pursuant to ISF Rule 5d., staff requests the Board to declare its intent to appropriate ISF water rights on the stream segments identified in the attached tables. Staff reviewed each proposed stream segment to ensure that for each ISF recommendation the data set is complete and standard methods and procedures were followed. In addition, staff completed its water availability analyses. Staff compiled sufficient information and performed the analyses necessary to provide a basis for the Board to declare its intent to appropriate water rights on these eight stream segments. These stream segments are located in Water Divisions 3, 4, 5, and 6, in Saguache, Montrose, Gunnison, Eagle, and Rio Blanco Counties.

### Technical Investigations

Staff's executive summary and technical analysis of each stream are contained in the Instream Flow Recommendation Reports and form the basis for staff's recommendations. In addition to the reports, the scientific data and technical analyses performed by the recommending entity are accessible on the Board's web site at:

<http://cwcb.state.co.us/environment/instream-flow-program/Pages/2018ProposedISFRecommendations.aspx>



### **Natural Environment Studies**

The Bureau of Land Management, Colorado Parks and Wildlife, High Country Conservation Advocates, and Western Resource Advocates conducted field surveys of the natural environment resources on these streams and found natural environments that can be preserved. To quantify the resources and to evaluate instream flow requirements, the recommending entities collected biologic and hydraulic data and performed R2CROSS modeling on all segments. The CWCB staff reviewed all of the data and models used to support the recommendations, and worked with the recommending entities to develop final recommendations of the amount of water necessary to preserve the natural environment to a reasonable degree for each of the streams listed on the attached Tabulation of Instream Flow Recommendations.

### **Water Availability Studies**

Staff conducted an evaluation of water availability for the streams listed. To determine the amount of water physically available for the Board's instream flow appropriations, staff analyzed available streamflow gage records, available streamflow models, and/or utilized appropriate standard methods to develop a hydrograph of median daily and/or mean monthly flows for each stream flow recommendation. In addition, staff analyzed the water rights tabulation for each stream to identify any potential water availability problems. Based on these analyses, staff 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 valid water rights.

On some of the listed streams, CWCB staff suggested modifications to the R2Cross biological recommendation due to water availability limitations. For these streams, staff met with the recommending entities to review the water availability analyses and discuss whether the modified recommendation would preserve the natural environment to a reasonable degree. After reviewing staff's hydrology, the original R2Cross results, and evaluating the indicator species and other aspects of the natural environment, the recommending entities concluded that the proposed modified recommendations would preserve the natural environment to a reasonable degree on each stream segment.

### **Stakeholder Outreach**

Staff provided public notice of the recommendations in both March and November of 2017 and contacted or met with the County Commissioners for each county where the stream segments are located. In addition, staff contacted water commissioners, local landowners, and others when possible to further discuss the recommendations.

### **Instream Flow Rule 5d.**

Rule 5d. provides that the Board may declare its intent to appropriate ISF water rights after reviewing Staff's recommendations for the proposed appropriations. Rule 5d. also sets forth actions that staff must take after the Board declares its intent that initiate the public notice and comment procedure for the ISF appropriations. Specifically:

- 5d. Board's Intent to Appropriate. Notice of the Board's potential action to declare its intent to appropriate shall be given in the January Board meeting agenda and the Board will take public comment regarding its intent to appropriate at the January meeting.

- (1) After reviewing Staff's ISF recommendations for proposed ISF appropriations, the Board may declare its intent to appropriate specific ISF water rights. At that time, the Board shall direct the Staff to publicly notice the Board's declaration of its intent to appropriate.
- (2) After the Board declares its intent to appropriate, notice shall be published in a mailing to the ISF Subscription Mailing Lists for the relevant water divisions and shall include:
  - (a) A description of the appropriation (e.g. stream reach, flow amounts, etc.);
  - (b) Availability (time and place) for review of Summary Reports and Investigations Files for each recommendation; and,
  - (c) Summary identification of any data, exhibits, testimony or other information in addition to the Summary Reports and Investigations Files supporting the appropriation.
- (3) Published notice shall also contain the following information:
  - (a) The Board may change flow amounts of contested ISF appropriations based on information received during the public notice and comment period.
  - (b) Staff will maintain, pursuant to Rule 5e.(3), an ISF Subscription Mailing List for each water division composed of the names of all persons who have sent notice to the Board Office that they wish to be included on such list for a particular water division. Any person desiring to be on the ISF Subscription Mailing List(s) must send notice to the Board Office.
  - (c) Any meetings held between Staff and members of the public will be open to the public. Staff may provide Proper Notice prior to any such meetings and may provide notice to persons on the ISF Subscription Mailing List(s).
  - (d) Any Notice to Contest must be received at the Board office no later than March 31<sup>st</sup>, or the first business day thereafter. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than April 30<sup>th</sup>, or the first business day thereafter.
  - (e) Staff will announce its Final Staff ISF Recommendation concerning contested appropriations at the September Board meeting and will send notice of the Final Staff Recommendation to all persons on the Contested Hearing Mailing List.
  - (f) The Board may take final action on any uncontested ISF appropriations at the May Board meeting.
- (4) After the Board declares its intent to appropriate, notice of the Board's action shall be mailed within five working days to the County Commissioners of the county(ies) in which the proposed reach is located.
- (5) Final action by the Board on ISF appropriations will occur no earlier than the May Board Meeting.

Attachments



# Colorado Water Conservation Board Instream Flow Tabulation - Streams Water Division 3



Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(dates) (CFS)	Approp Date
3		Miners Creek	Saguache	Saguache	headwaters in the vicinity of E: 361754.34 N: 4200135.10	confl Prong Creek at E: 367461.17 N: 4201747.81	4.35	0.56 (09/01 - 04/30) 1 (05/01 - 08/31)	
3		Prong Creek	Saguache	Saguache	headwaters in the vicinity of E: 364704.01 N: 4198791.92	confl South Carnero Creek at E: 368816.09 N: 4202053.13	3.71	0.4 (09/01 - 04/30) 4.2 (05/01 - 08/31)	

Totals for Water Division 3

Total # Appropriations = 2  
Total # Appropriation Stream Miles = 8.1

## Instream Flow Tabulation - Water Division 4

Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(dates) (CFS)	Approp Date
4		Coyote Wash	Upper Dolores	Montrose	Colorado/Utah Stateline at E: 145400.51 N: 4236977.92	confl Dolores River at E: 154771.65 N: 4238974.99	10.48	0.8 (09/01 - 02/29) 2.2 (03/01 - 08/31)	
4		Dutchman Creek	Tomichi	Saguache	headwaters in the vicinity of E: 369063.00 N: 4242474.76	confl Owens Creek at E: 368109.13 N: 4251307.88	6.78	0.94 (04/01 - 08/31) 0.84 (09/01 - 03/31)	

**Totals for Water Division 4**

**Total # Appropriations = 2**  
**Total # Appropriation Stream Miles = 17.3**

## Instream Flow Tabulation - Water Division 5

Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(dates) (CFS)	Approp Date
5	(increase)	Abrams Creek	Eagle	Eagle	headwaters in the vicinity of E: 339836.18 N: 4383025.55	Mrs. Paye Ditch hdgt at E: 343811.41 N: 4387351.32	3.95	0.75 (05/01 - 09/30)	

**Totals for Water Division 5**

**Total # Appropriations = 1**  
**Total # Appropriation Stream Miles = 4**

## Instream Flow Tabulation - Water Division 6

Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(dates) (CFS)	Approp Date
6		Douglas Creek	Lower White	Rio Blanco	confl E & W Douglas Creeks at E: 181274.73 N: 4418708.38	confl White River at E: 177669.10 N: 4444930.57	26.29	2.7 (03/16 - 06/15) 1.7 (06/16 - 06/30)	
6		Hahn Creek	Upper White	Rio Blanco	headwaters in the vicinity of E: 285101.12 N: 4445142.66	confl Lost Creek at E: 290147.03 N: 4441691.21	4.71	0.75 (11/01 - 04/30) 2.6 (05/01 - 08/31) 1.6 (09/01 - 10/31)	
6		Lost Creek	Upper White	Rio Blanco	confl Hahn Creek at E: 290147.03 N: 4441691.21	confl Long Park Creek at E: 289667.03 N: 4436992.17	3.64	1.3 (10/01 - 03/31) 2.3 (04/01 - 08/15) 1.8 (08/16 - 09/30)	

**Totals for Water Division 6**

**Total # Appropriations = 3**  
**Total # Appropriation Stream Miles = 34.6**

**Totals Divisions: 1 - 7**

**Total # Appropriations = 8**  
**Total # Appropriation Stream Miles = 63.9**