

2018 ISF WORKSHOP



Morrison Creek



COLORADO

Colorado Water
Conservation Board

Department of Natural Resources

SESSION OVERVIEW

New Appropriations Workshop

(2:00 pm to 3:20 pm)

Break

(~3:20 pm to ~3:30 pm)

Request for Water Acquisition Pilot Process

(3:30 pm to 5:00 pm)

What brings you to the ISF Workshop today?

- A. Interest or curiosity about new ISFs
- B. Concern about new ISFs that may affect you or your basin
- C. Entered this session accidentally and feel awkward about getting up to leave
- D. ISF Program Staff that are required to attend
- E. Looked like a quiet session where you could take a nap?

Have you ever?

- A. Lived in a big city (Like Denver)
- B. Lived in a rural area?
- C. Lived on the West-slope?
- D. Lived on the East-slope?
- E. Lived outside of Colorado?
- F. Lived outside of the USA?

What are you most interested in learning about?

- A. ISF Program History and Process to obtain ISF water rights?
- B. How to develop ISF recommendations?
- C. The contested hearing process
- D. Details about the new ISF recommendations
- E. Information on the Request for Water Pilot?
- F. Other? If so, what?

ISF STAFF

LINDA BASSI
Section Chief

Policy, Program &
Staff Management

JEFF BAESSLER
Deputy Section Chief

Appropriations, Physical Protection,
Section Finances & Planning

BRANDY LOGAN
Hydrologist

Appropriations &
Physical Protection Analyses

JACK LANDERS
Hydrologist\Hydrographer

Physical Protection & Monitoring

ROB VIEHL
Water Resource Specialist

Appropriations &
Legal Protection Analyses

KAYLEA WHITE
Senior Water Resource Specialist

Acquisitions and Legal Protection

DON WEST
Engineer

Engineering Analysis,
Acquisition Support

KIM RICOTTA

Legal Protection Support

ISF PROGRAM AREAS

New Appropriations

Appropriate and adjudicate a new (junior) ISF water right for the minimum required to preserve the natural environment to a reasonable degree

Water Acquisitions

Acquire existing water rights and change to ISF use in amounts CWCB determines appropriate to preserve or improve the natural environment to a reasonable degree

Monitoring and Request for Administration

Actively monitor conditions at stream gages and initiate administrative calls as necessary to ensure ISF rights are met.

Legal Protection

Initiating legal action through Colorado's water courts when necessary to provide 100% protection of the state's decreed ISF rights.

Inter-Section Issues –
DSS, Wild and Scenic, State
Water Plan, River Restoration,
Stream Management Plans, etc.

ISF PROGRAM HISTORY



ISF PROGRAM HISTORY

1960s and 70s - Increasing public concern about the impact of human activities on the environment

Toxic Chemicals

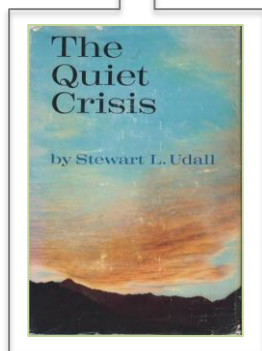


1st Earth Day



- 1970 National Environmental Policy Act
- 1972 Clean Water Act,
Costal Zone Mgt. Act
Marine Mammal Protection Act
- 1973 Endangered Species Act
- 1974 Safe Drinking Water Act

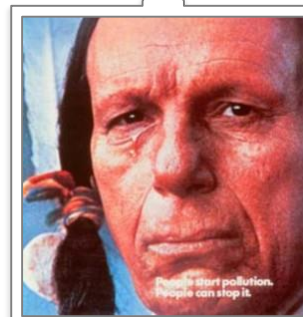
1960's



Abuse of Nation's
Natural Resources

1964
Wilderness
Preservation Act

1968
Wild and Scenic
Rivers Act

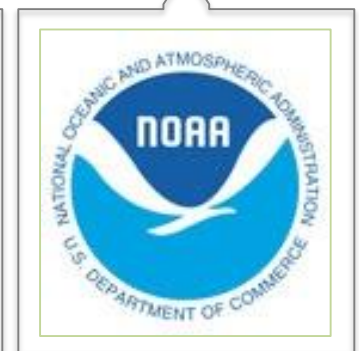


Keep America
Beautiful
Campaign

1970's



Creation of New
Federal
Agencies



COLORADO IN THE 1970s

- Public concern over dry stream reaches
- No mechanism within the water rights system to keep water within a stream for environmental preservation
- Federal imposition of bypass flows on Fry-Ark project
- Threats of ballot initiative to allow private ISFs



SENATE BILL 73-97

Established Colorado's Instream Flow Program



- Recognized “the need to correlate the activities of mankind with some reasonable preservation of the natural environment”
- Vested the CWCB with the authority “on behalf of the people of the state of Colorado, to appropriate or acquire... such waters of natural streams and lakes as may be required to preserve the natural environment to a reasonable degree.”

SENATE BILL 73-97

Instream Flow & Natural Lake Level water rights:

- In-channel or in-lake appropriations of water
- For minimum flows between specific points on a stream, or levels on natural lakes
- Administered within the State's water right priority system
- Entitled to stream conditions existing at time of appropriation
- Made exclusively by CWCB



WHAT DOES THE PROGRAM ACCOMPLISH?



Legal mechanism to maintain streamflow for the natural environment.



Provides regulatory certainty for water users by preserving the doctrine of prior appropriation.



NEW APPROPRIATIONS

ISF Rule 5 procedure



STATUTORY REQUIREMENTS

The Board must make 3 determinations before applying to water court for an ISF water right:

(1) A natural environment exists

Typically identified by the presence of a coldwater fishery, but other indicators can be used (warm water fishery, riparian vegetation)



(2) Water is available for appropriation

- Determined by water right and hydrologic investigations
- Daily Median hydrology when available –water available 50% of time

(3) No material injury to other water rights will occur

- New appropriations are junior water rights and have no effect on existing senior appropriations
- 37-92-102(3) b. Recognition of existing undecreed uses and exchanges

NATURAL ENVIRONMENT



flannelmouth sucker



Colorado cutthroat trout



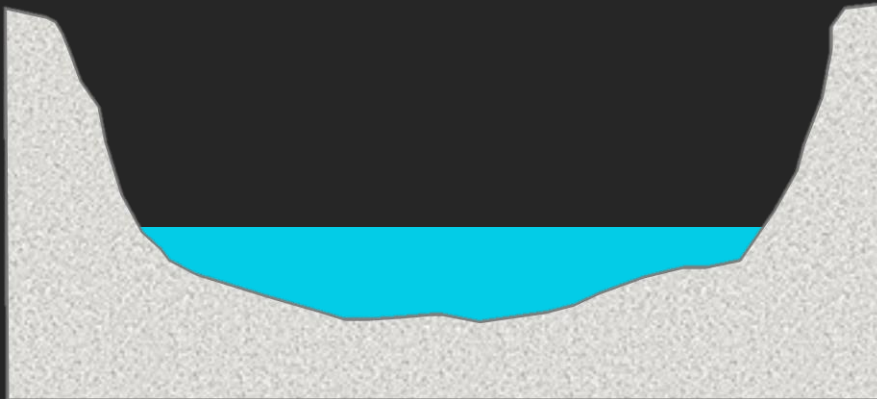
brook trout

FLOW QUANTIFICATION

R2Cross model determines the streamflow that will maintain hydraulic parameters related to fish habitat.

3 Habitat Criteria:

- Average Depth of 0.2 ft
- Average Velocity of 1.0 ft/sec
- 50% Wetted Perimeter



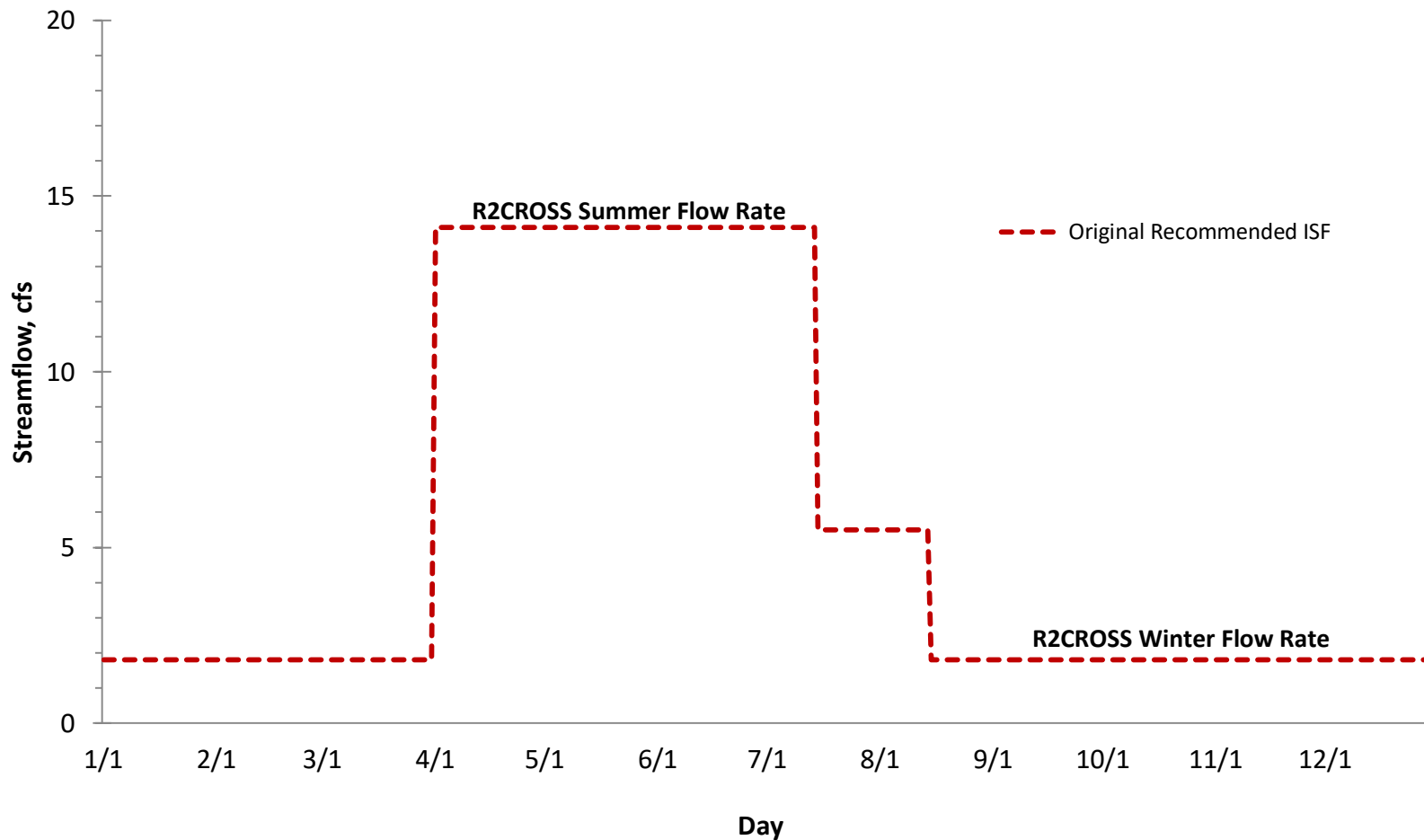
WATER AVAILABILITY

- Water balance approach
 - Median physically available streamflow
- Best available data
 - Streamflow gages
 - Diversion records
 - StreamStats
 - Temporary streamflow gages
 - Spot measurements



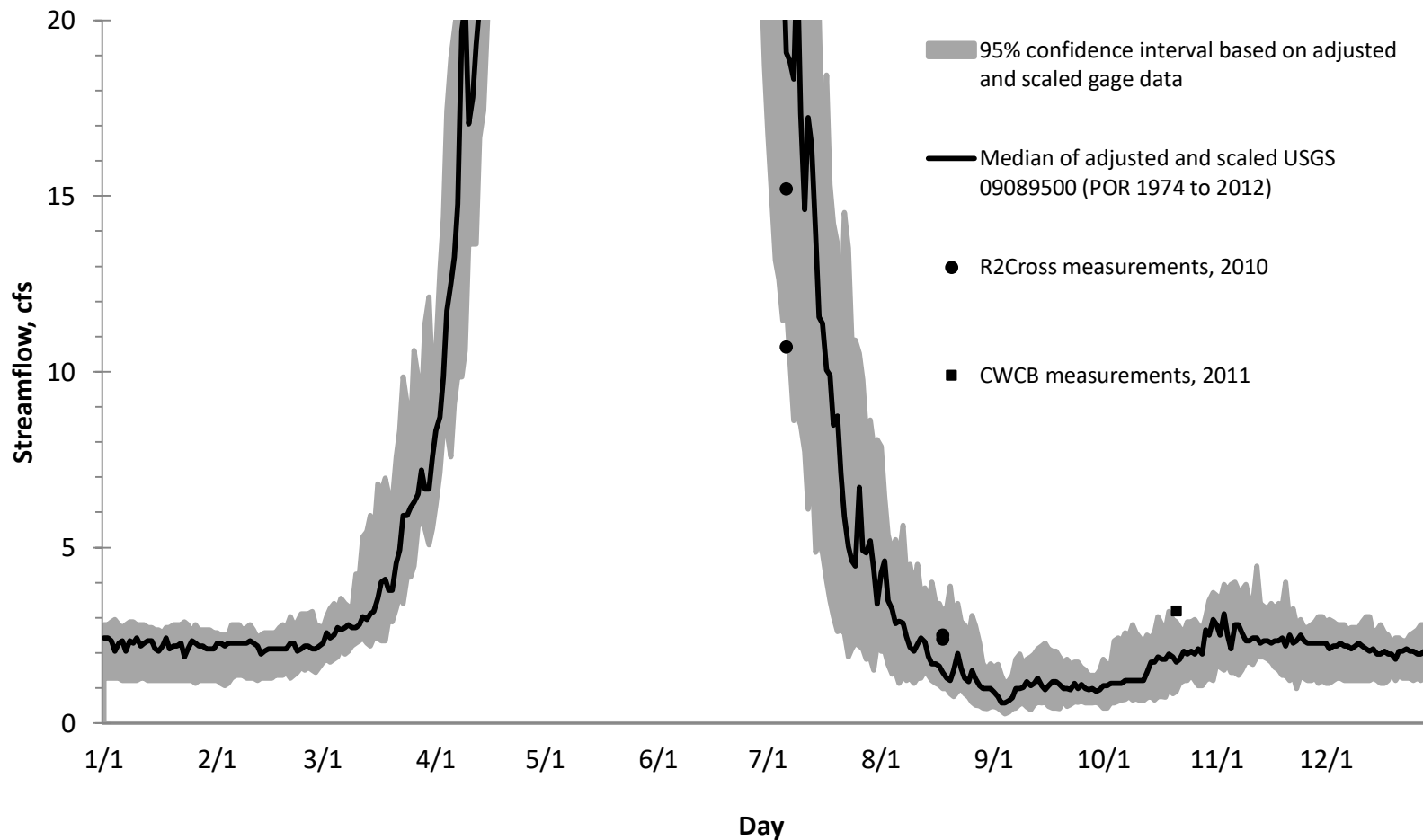
WATER AVAILABILITY

West Divide Creek
Lower terminus: confluence with Mosquito Creek



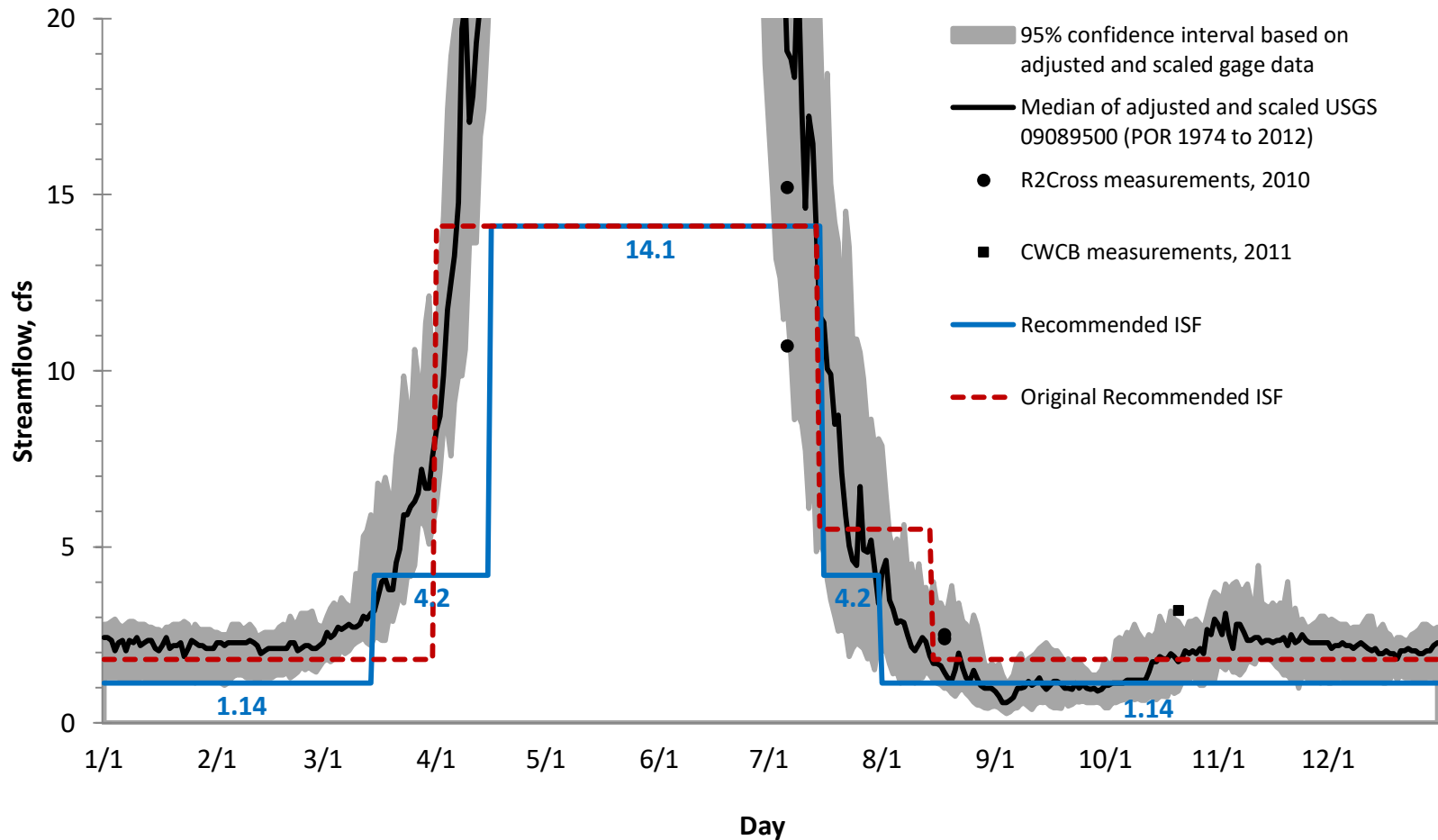
WATER AVAILABILITY

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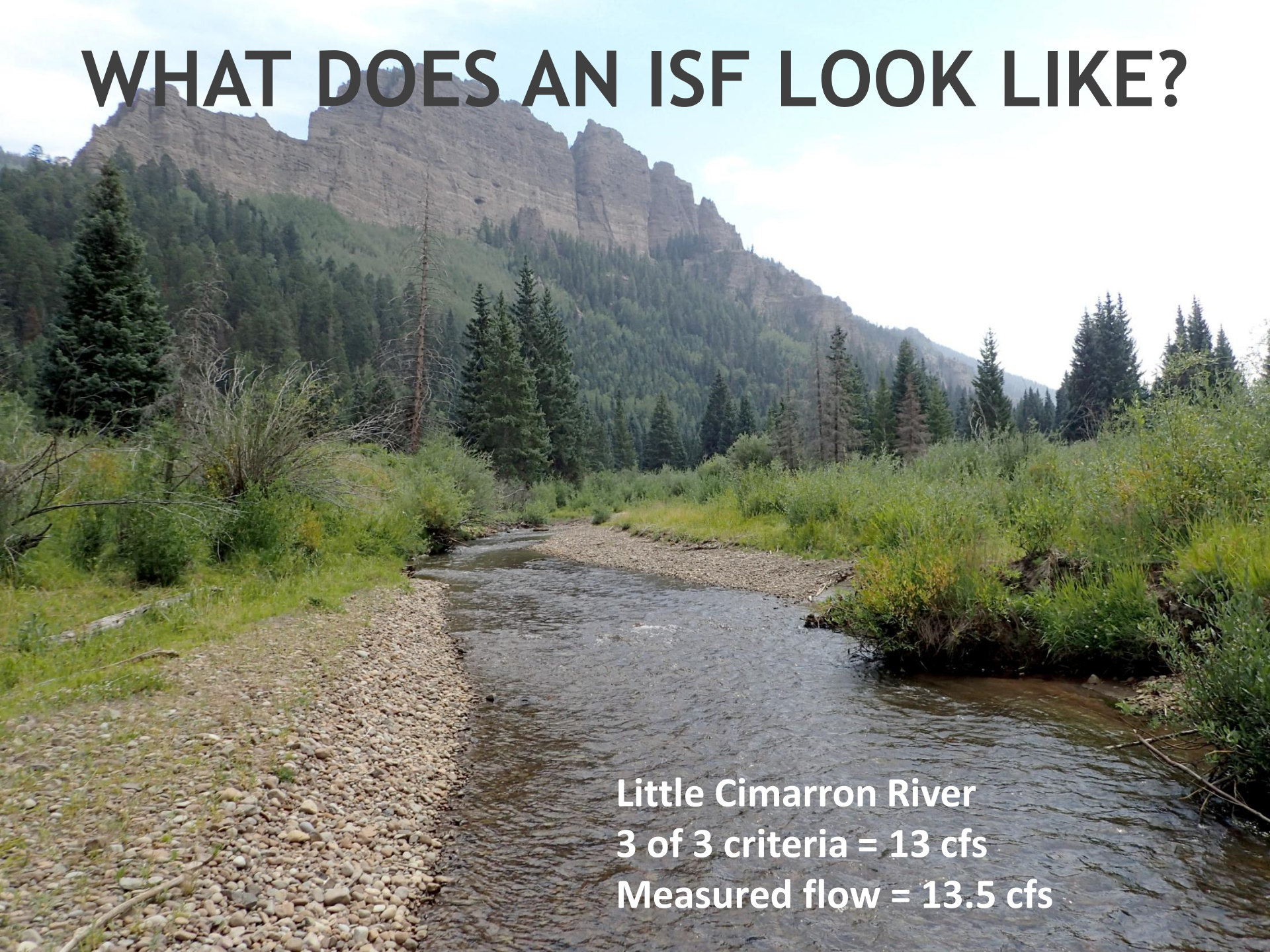
WATER AVAILABILITY

West Divide Creek
Lower terminus: confluence with Mosquito Creek



Water availability can be viewed as a necessary refinement that may impose limitations on biological quantification model findings.

WHAT DOES AN ISF LOOK LIKE?



Little Cimarron River
3 of 3 criteria = 13 cfs
Measured flow = 13.5 cfs

ISF APPROPRIATION PROCESS

***Any person or entity* may recommend streams or lakes to be considered for appropriation to preserve the natural environment**

Recommendation Development

- Collect data and quantify flow requirements
- Submit recommendations “with specificity and in writing”.
- Identify stakeholders and participate in staff outreach efforts.
- Testify on natural environment and quantification science at a potential contested hearing.

ISF APPROPRIATION PROCESS

CWCB STAFF:

Recommendation Processing and Outreach Activities by Staff (Year 1)

- Public Notice in March and November
- Reviews submitted data and performs a detailed water availability analysis
- Perform site visits and collects additional data
- Holds public meetings to get input on recommendations

Board Appropriation Administrative Process (Year 2)

- Staff recommends Board form its intent to appropriate – *typically at the Board's January Meeting.*
- If recommendation contested, staff negotiates settlement or Board holds hearing (ISF Rule 5 notice and comment procedures)
- File application for ISF water right in water court

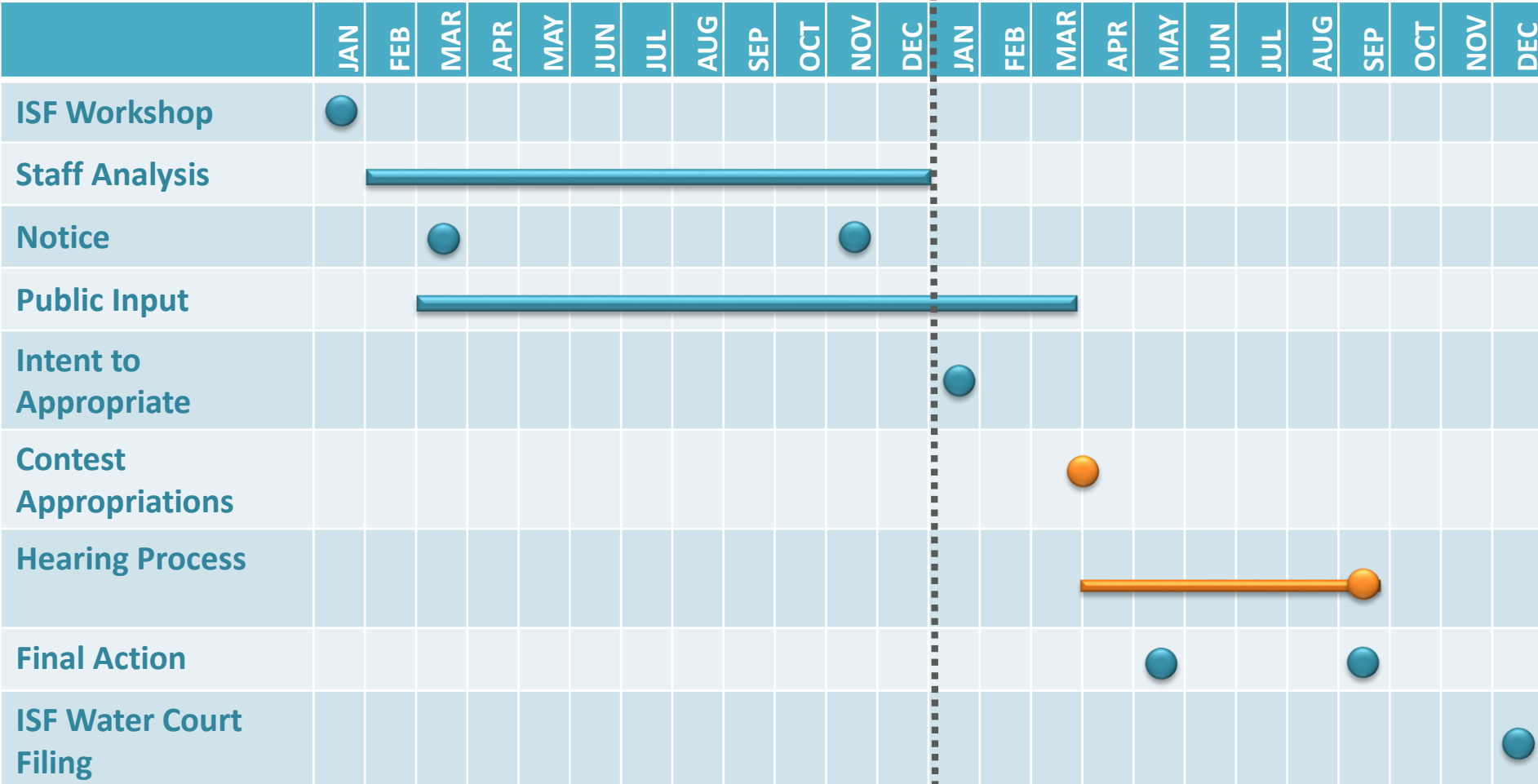
PROCESSING TIMELINE

YEAR 1

Recommendation Processing & Public Outreach

YEAR 2

Board Action and Hearing Process



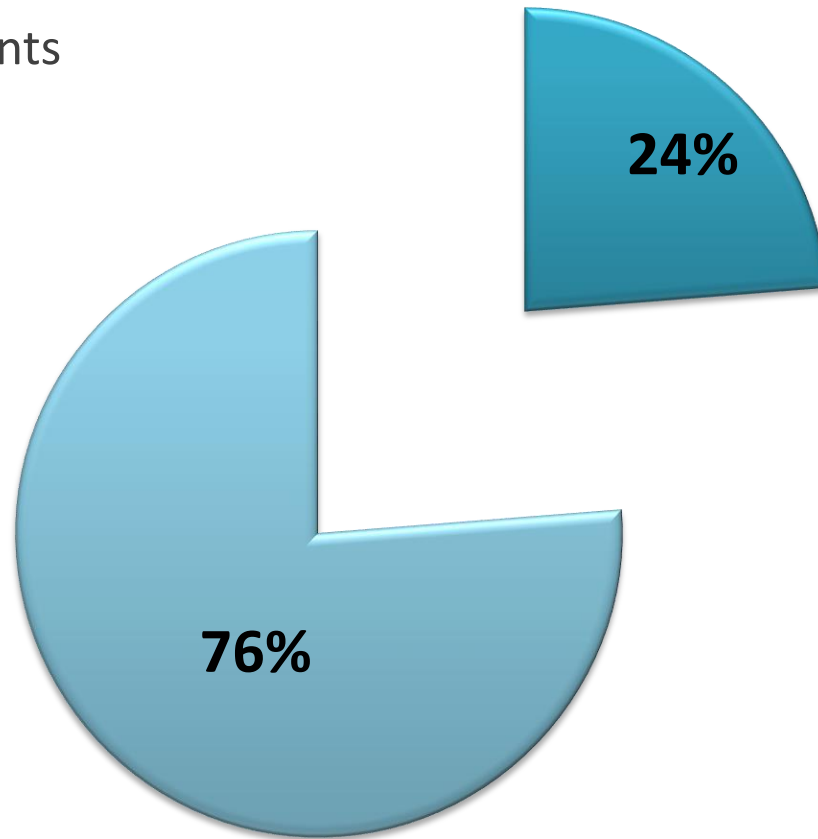
ISF PROGRAM STATISTICS

ISF Appropriations

~ 1,700 stream segments

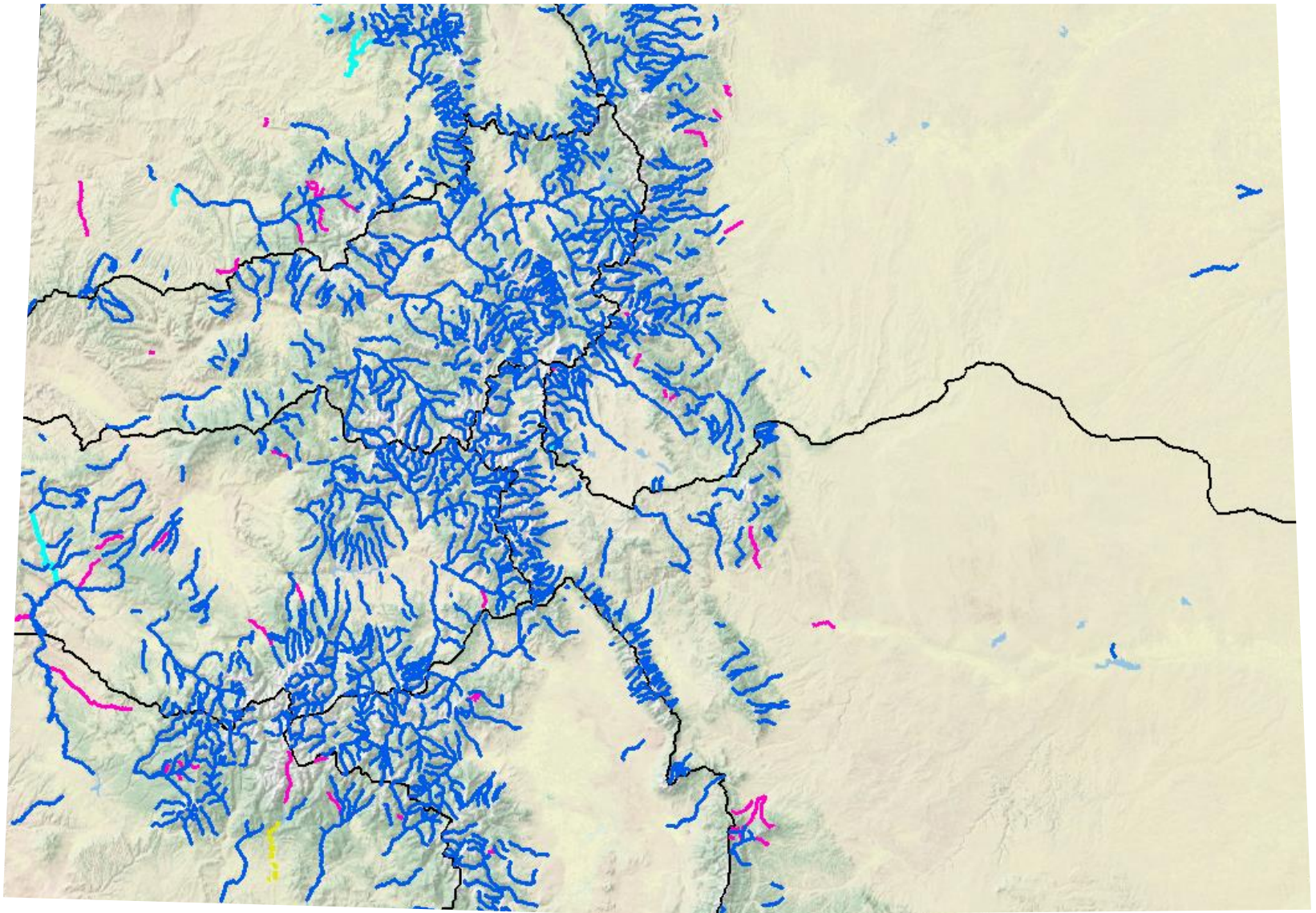
9,376 stream miles

482 natural lakes



Note: 39,479 miles of perennial streams in the state based upon the National Hydrography Dataset

EXISTING ISF WATER RIGHTS



Dark blue lines represent streams with decreed ISF rights, light blue are pending decree, violet are current recommendations

ON-GOING ISF RECOMMENDATIONS

Division	Waterbody	Counties	Recommender
1	Unnamed Tributary to Duck Creek	Clear Creek	CPW
1	Platte Gulch	Park	CPW
1	Indian Creek	Park	CPW
1	McCurdy Creek	Park	CPW
1	Mill Creek	Larimer	CPW
1	North Fork Little Thompson River	Larimer	Larimer County DNR & CPW
1	Sulzer Gulch	Larimer	Larimer County DNR & CPW
1	Cache la Poudre River (Spring Canyon)	Larimer	Larimer County DNR & CPW
2	Baker Creek	Huerfano	CPW
2	Bonnett Creek	Huerfano	CPW
3	South Fork Jim Creek	Conejos	CPW
4	Cow Creek	Ouray	CPW
4	Kelso Creek	Mesa	CPW
4	Little Cimarron River	Gunnison & Montrose	CPW
4	Spring Creek	Montrose	BLM
4	Monitor Creek	Montrose	BLM
4	Potter Creek	Montrose	BLM
4	Cottonwood Creek	Delta & Montrose	BLM
6	Piceance Creek	Garfield & Rio Blanco	BLM
6	Milk Creek	Moffat	BLM
6	West Marvine Creek	Rio Blanco	CPW
6	Marvine Creek	Rio Blanco	CPW
7	Rio Lado	Montezuma	USFS
7	Vallecito Creek	La Plata & San Juan	USFS
7	Disappointment Creek	Dolores & San Miguel	BLM
7	Little Taylor Creek	Montezuma	Dolores River Anglers & CPW
7	Tenderfoot Creek	Dolores & Montezuma	Dolores River Anglers & CPW
7	Ryman Creek	Montezuma	Dolores River Anglers & CPW
7	Wildcat Creek	Dolores & Montezuma	Dolores River Anglers

2018 ISF RECOMMENDATIONS

**COLORADO PARKS AND WILDLIFE
BUREAU OF LAND MANAGEMENT
HIGH COUNTRY CITIZENS ADVOCATES**



In your free time do you enjoy?

- A. Fishing or Hunting?
- B. Watching sports?
- C. Rafting or kayaking?
- D. Going to the movies?
- E. Hiking or Birdwatching?




Where do you think the ISF program should be headed?

- A. Nowhere, it's fine just the way it is.
- B. More ISF appropriations to address T&E species concerns, wild and scenic issues, riparian and other aspects of the natural environment.
- C. The ISF Program's work is done. Now stop it already.
- D. Additional Acquired Instream Flow Rights

MORE INFORMATION

← → ↻ ↗ ⓘ cwcb.state.co.us/environment/instream-flow-program/Pages/2018ProposedISFRec... 🔍 ☆ 📱 🖨 ⋮

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Home > Environment > Instream Flow Program > 2018ProposedISFRecommendations

Environment

- Instream Flow Program
 - Instream Flow Appropriations
 - Water Acquisitions
 - Monitoring & Enforcement
- Climate Change
- Watershed Protection & Restoration
- Nonconsumptive Needs
- Endangered Species
- Recreational In-Channel Diversions
- Salinity Control
- Wild & Scenic Rivers Fund

2018 Proposed Instream Flow and Natural Lake Level Appropriations

Electronic.aspxPursuant to ISF Rule 5, the Colorado Water Conservation Board is providing notice that the following streams and lakes are being considered for appropriation. The earliest these streams could be recommended to the CWCB Board is at the January 2018 meeting. Staff is evaluating these recommendations for completeness and accuracy and performing an independent review of water availability. Staff requests public comment on these recommendations and urges any interested parties to provide comments to [Jeff Baessler](#). Detailed information regarding these proposed instream flow appropriations can be obtained by clicking on the stakeholder recommendation in the table below. Staff will provide regular updates to this table as information is received and developed.

Appropriation Notices

- March 2017
- November 2017

Presentations at the 2017 ISF Workshop

- CWCB Staff
- BLM 2018 Instream Flow Recommendations
- CPW 2018 Instream Flow Recommendations
- High Country Conservation Advocates & Western Resource Advocates 2018 Instream Flow Recommendations

Google Earth
View the [January 2018 Recommendations](#) in Google Earth.

Last Updated: January 10, 2018
Instream Flow Appropriations

WATER DIVISION	STREAM NAME	STAFF ANALYSIS & RECOMMENDATION	STAKEHOLDER RECOMMENDATION	COUNTY	STATUS
1	Coal Creek (Boulder County Open Space Boundary to Louisville Wastewater Treatment outfall)		City of Louisville & CPW	Boulder	Postponed Stakeholder Letters
1	Coal Creek (Louisville Wastewater Treatment outfall to Lafayette pumping station #2)		City of Louisville & CPW	Boulder	Postponed Stakeholder Letters
1	Indian Creek (Headwaters to Confl. Willow Gulch)		CPW and Park County	Park	Postponed
1	McCurdy Creek (Headwaters to Confl. Lost Creek)		CPW and Park County	Park	Postponed

Questions?

QUESTIONS?

LOST CREEK



CONTACT INFORMATION

ISF PROGRAM

<http://cwcb.state.co.us/Pages/CWCBHome.aspx>

303-688-3441

RECOMMENDERS

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Would you be interested in?

- A. Recommender Training
 - Field Data Collection
 - Data Analysis & Interpretation
 - Preparing recommendation
 - Recommendation processes and commitment

- B. ISF Staff presenting information to your organization?
 - A. How to coordinate with CWCB on preventing injury to ISFs when developing a water court application?
 - B. ISF Program presentation
 - C. Something else?