



Dolores Water Conservancy District

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Colorado Water Conservation Board and
Linda Bassi, Branch Chief
Stream and Lake Protection Program
VIA: Email and Hand Delivered

Dear CWCB Board and Branch Chief,

I am writing at the direction of the Dolores Water Conservancy District Board to request that the Notice of Intent to appropriate an Instream Flow on Himes Creek be delayed until January of 2019. The reasons for requesting this delay are as follows:

1. Himes Creek is a "non-standard" instream flow request.
2. "Standard" instream flows are quantified by the standard methods of R2 Cross and PHABSIM and quantifications derived from median historic flows intended to meet the legislated intent of the minimum amount of water necessary to protect the natural environment to a reasonable degree.
3. What is "non-standard" about Himes Creek is the intent to take all unappropriated flows. Given the remote location of Himes Creek on National Forest land with no intervening diversions, this non-standard approach is unlikely to create conflict. But once such criteria become established by the Instream Flow Program and such requests move lower in the stream system, conflict is much more likely.
4. The Himes Creek proposal aims at peak flows primarily for native trout protection. Rio Lado Creek, proposed on the CWCB 2019 ISF list, is another proposal that appears to focus on peak flows considering beaver dams, a large complex of wetlands and a unique mix of riparian vegetation as well as fish. Using the instream flow program to claim all unappropriated peak flows is very different than a fish flow hydrograph built on median flows.
5. Going down the path represented by Himes Creek and Rio Lado Creek ISF proposals is a big departure from the standard, quantified, Instream Flow, sitting in priority, that water managers are familiar with.
6. Protecting the clarity, integrity and acceptance of the Instream Flow Program while addressing peak flows may require a new dimension to the Stream and Lake Protection Program, or it may require identification of an alternative designation that could be used on National Forest Land to afford such protections when standard methods can't be applied.

7. DWCD has worked with the San Juan National Forest, CWCB, CPW and the SWWCD to set up a facilitated technical meeting on April 5 to explore options for protecting Himes Creek that will not draw opposition from DWCD and other water entities. The outcome of the technical meeting will set the stage for bringing managers and attorneys back to the table, with facilitation, to try and arrive at a consensus approach or a set of defined alternatives to consider in addressing protections for Himes Creek.
8. Moving the intent to appropriate Himes Creek to 2019 will allow time for the technical group and managers to fully vet the issues and alternatives concerning how to protect Himes Creek.
9. What comes out of the Himes Creek discussions may also yield valuable insights and suggestions to the CWCB Board as you grapple with how to address peak flow issues without undermining the well-established, quantified, fish flow criteria that have characterized the Instream Flow Program in Colorado as a feature of Colorado Prior Appropriation Water Law.

Thank you for considering DWCDs request to delay the notice of intent to appropriate an Instream Flow on Himes Creek to January of 2019.

DWCD works closely, on many fronts, with CWCB, the San Juan National Forest and Colorado Parks and Wildlife. We believe that these working relationships can yield solutions that align the interests of everyone involved in these discussions.

Sincerely,



Michael Preston, General Manager
Dolores Water Conservancy District

Cc. Kara Chadwick, Forest Supervisor, San Juan National Forest