

September 22, 2014

To: Park County Board of County Commissioners (BOCC)

From: Park County Advisory Board on the Environment

Subject: Final recommendations concerning support for minimum stream flow recommendations on seven streams and water level recommendations on two natural lakes which are on lands administered by the United States Forest Service, South Park Ranger District.

At the April 15 meeting of ABE the decision was made to develop recommendations to the BOCC for support of minimum stream flow and water levels on selected waters. In subsequent meetings, including with Colorado Parks and Wildlife (CPW), Forest Service (South Park Ranger District) a list of candidate streams and lakes was developed. This list was determined with input from both CPW and the Forest Service.

CPW and the Forest Service have authority to make flow and water level recommendations to the Colorado Water Conservation Board (CWCB) independent of support from the BOCC. However, ABE members felt that a cooperative approach, with the objective of gaining BOCC support, would be most appropriate. The actual recommendations would be submitted to the CWCB by CPW with support from the BOCC and the Forest Service. Outreach to other interests have also occurred with the objective of gaining support and understanding of the minimum stream flow and natural lake water level program administered by CWCB.

ABE developed both a short term list of streams and natural lakes for consideration, as well as a long term list. The short term list is composed of seven streams and two natural lakes all of which are on forest lands. The long term list is composed of approximately 31 streams and 15 natural lakes of which it is estimated that 80% of the streams are on forest lands and all the natural lakes are on forest lands. Streams flowing through private lands, as well as natural playa lakes, were also in the long term list. Actual field analysis by CPW would be required to develop more accurate data on these waters, including which ones may be candidates for introduction of Greenback Cutthroat Trout, protection of Boreal Toads and rare plant ecosystems.

ABE believed it was appropriate to develop both short and long term recommendations for consideration. These recommendations allowed a comprehensive understanding of those streams and natural lakes that exist in Park County where the potential exists to establish minimum stream flows and water levels for natural lakes. In developing both lists it was the overall objective of ABE to provide long term protection to streams and natural lakes.

The recommendation that ABE is now submitting to the BOCC for support only deals with the short term list of seven streams and two natural lakes. As stated, these waters are on forest lands and no senior water right appropriations are present. Certain of these waters are candidates for reintroduction of native Greenback Cutthroat Trout (federally threatened species), as well as long term protection for Boreal Toad habitat. In addition, protection of rare plant species and wetland habitat are of importance.

ABE also recommends that the BOCC support actions in cooperation with The Nature Conservancy (TNC) that will result in a water level appropriation for the High Creek Fen. TNC supports this action and owns the land containing the HCF. The BOCC has given support to developing an actual water level recommendation for review. It is likely that any formal recommendation to the CWCB will be made by TNC. Support from the BOCC will be important. Staff of the Coalition for the Upper South Platte (Jara Johnson in cooperation with TNC and CPW) will develop the recommendation. Once this recommendation is prepared it will be presented to the BOCC and others interests for discussion. The recommendation will not be prepared until sometime in 2015.

It is important to recognize that currently there are 458.5 miles of streams (55 streams, 83 segments) in Park County that already have minimum flow appropriations held by the Colorado Water Conservation Board. These appropriations have been administered by CWCB since the late 1970's and have played a significant role in maintaining the biological integrity of Park County streams, fisheries and wetland habitats, while recognizing the importance of private water rights. There also are appropriations on six natural lakes, four of which are playa lakes that are important to a diversity of wildlife species.

ABE has conducted considerable outreach including both the Upper and Central Water Conservancy Districts, CPW, CWCB, Forest Service, Central Colorado Cattlemen's Association and others.

The Conservancy Districts do not oppose recommendations on five of the seven streams and are considering support of the remaining two streams pending a review of legal descriptions. Both natural lake water levels are not opposed. The Conservancy Districts are evaluating a water level for the HCF.

The CCCA has yet to support the proposal to establish minimum flows on the seven listed streams and two natural lakes. Stated concerns being potential impacts to senior water rights, grazing allotments and use of water sources for cattle. In previous discussion with the BOCC there was stated concern over potential impacts to senior water rights. This concern does not exist within the waters contained in the short term list because they are on federal lands.

A special meeting for further discussion of the ABE proposal was held on July 25 and attended by members of CCCA, Colorado Cattlemen's Association, CPW, CWCB and ABE representatives. Details of the enabling legislation and basis for actual flow and lake recommendations were provided by both CWCB and CPW.

CCCA (John Woodward) has requested further discussion with the BOCC in October. At the present time no date has been scheduled. If a meeting occurs the final recommendation of ABE as defined in this document should be the main topic of discussion. Unfortunately due to the delay in reaching a decision CPW has not conducted field work necessary to develop actual recommendations and weather conditions may prevent such work for the remainder of 2014.

There is considerable public support for establishing minimum stream flows, water levels for natural lakes and a water level for the High Creek Fen.

FINAL ABE RECOMMENDATION FOR CONSIDERATION

The Park County Advisory Board on the Environment recommends to the BOCC that written support be given to Colorado Parks and Wildlife, Forest Service (South Park Ranger District) and the Colorado Water

Conservation Board regarding establishing minimum flows for seven streams and water levels for two natural lakes as follows:

Streams:

Duck Creek, from the outlet of Upper Square Top Lake to Duck Lake (Clear Creek County) that flows into Park County.

Rock Creek, from headwaters to confluence with natural falls located in area of North boundary of S16-T8S-R74W. (Site for future CPW reintroduction of native Greenback Cutthroat Trout)

Headwaters tributary of Rough and Tumbling Creek to confluence with Rough and Tumbling Creek (Legal descriptions provided to Upper and Central Conservancy Districts for review. This tributary also has a population of Boreal Toads, which is a declining aquatic species.)

Platte Gulch tributary of the Middle Fork of the South Platte to confluence with Middle Fork of South Platte.

West Fork tributary of Crooked Creek to confluence with Crooked Creek (Legal descriptions provided to Upper and Central Conservancy Districts for review. Rare plant species are believed to exist in this tributary.)

Indian Creek and McCurdy Creek tributaries to Lost Creek to confluence with Lost Creek in the Lost Creek Wilderness Area. Indian Creek and McCurdy Creek are separate streams.

Natural Lakes:

Upper and Lower Square Top Lakes (Clear Creek County, flow into Park County)

Note: The Upper and Central Conservancy District have voted to not oppose stream flow recommendations for Duck Creek, Rock Creek, Indian Creek, McCurdy Creek and Platte Gulch tributary of the Middle Fork of the South Platte. The West Fork of Crooked Creek and Rough and Tumbling Creek tributary have not been approved pending review of legal descriptions. The decision was also made to not oppose water levels for Square Top Lakes. It is anticipated that the Conservancy Districts will make a decision at a future HASP meeting. Dave Wissel has assisted ABE throughout the discussion process with the Conservancy Districts.

DRAFT COLORADO WATER PLAN

ABE has had the opportunity to review segments of the draft Colorado Water Plan and specially environmental and recreational attributes that relate to the South Platte Basin. Minimum flow water rights, natural lake level water rights, Gold Metal stream and lakes, Greenback Cutthroat Trout habitat, rare plants, wetlands, and Boreal Toad habitat are listed among other attributes. The BOCC has the opportunity to take a leadership role in the cooperative implementation of certain of these attributes in supporting minimum stream flows and water levels for natural lakes.

CONCLUSION

The Park County Advisory Board on the Environment wishes to thank all concerned for participating in developing the final recommendation for consideration by the Park County Board of County Commissioners. Cooperation from staff of Colorado Parks and Wildlife and the Colorado Water

Conservation Board enabled completion of the recommendation and a better understanding of Colorado's minimum stream flow and natural lake water level program. The assistance and guidance of Tom Eisenman have been especially important in the process.

ABE Members: Eddie Kochman, Chairman, Jennifer Migliorato, Vice Chairman, Roger Mattson, Secretary, Ramon Castro, Cliff Pugh, Craig Carter, Terry O'Neill, Kristen Springer