



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Chief
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DATE: January 18, 2019

AGENDA ITEM: 22. Instream Flow Appropriations in Water Divisions 2, 3, 4, 6, and 7

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 has been provided to the Board separately, which includes the technical basis for each appropriation and appendices of the supporting scientific data.

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

Staff reviewed each proposed stream segment to ensure that for each ISF recommendation, the dataset is complete and proper methods and procedures were followed. In addition, staff conducted site visits and completed 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 fifteen stream segments. These stream segments are located in Water Divisions; 2 (Fremont and Huerfano Counties), 3 (Saguache County), 4 (Gunnison and Saguache Counties), 6 (Garfield, Rio Blanco, and Routt Counties), and 7 (Dolores and San Miguel Counties).

Technical Investigations

Staff's executive summary and technical analysis of each stream 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 website at:

<http://cwcb.state.co.us/environment/instream-flow-program/Pages/2019ProposedISFRecommendations.aspx>



Natural Environment Studies

The Bureau of Land Management, Colorado Parks and Wildlife, and High Country Conservation 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. CWCB staff reviewed all of the data used to support the recommendations, and worked with the recommending entities to develop final recommendations for 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 2018 and 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 31st, 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 30th, 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 2



Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(dates) (CFS)	Approp Date
2		Baker Creek	Huerfano	Huerfano	headwaters in the vicinity of E: 485496.58 N: 4134666.58	Forest Service boundary at E: 488637.74 N: 4133589.16	2.13	2.1 (05/01 - 06/30) 1.3 (07/01 - 08/31) 0.5 (09/01 - 03/31) 1 (04/01 - 04/30)	
2		Bonnett Creek	Huerfano	Huerfano	headwaters in the vicinity of E: 486695.74 N: 4138962.59	confl Cucharas River at E: 491728.78 N: 4137528.63	4.05	0.4 (09/01 - 03/31) 1 (04/01 - 06/30) 0.55 (07/01 - 08/31)	
2		Stout Creek	Arkansas Headwaters	Fremont	BLM/USFS Property Boundary at E: 425206.65 N: 4248489.60	confl unnamed tributary at E: 426072.66 N: 4248935.65	0.62	3.5 (05/01 - 06/30) 1.5 (07/01 - 08/31) 0.6 (09/01 - 04/30)	

Totals for Water Division 2

Total # Appropriations = 3
Total # Appropriation Stream Miles = 6.8

Instream Flow Tabulation - 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		Carnero Creek	Saguache	Saguache	confl SF & MF Carnero Creeks at E: 377513.93 N: 4196212.69	confl Mogotas Arroyo at E: 387851.17 N: 4190411.28	9.81	2.2 (12/01 - 02/29) 2.6 (03/01 - 11/30)	

Totals for Water Division 3

Total # Appropriations = 1
Total # Appropriation Stream Miles = 9.8

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		Cold Spring Creek	Tomichi	Saguache	Amalla Spring at E: 343427.98 N: 4223358.35	confl Pauline Creek at E: 345270.75 N: 4223387.43	1.23	0.25 (07/01 - 04/30) 0.4 (05/01 - 06/30)	
4		East Fork Little Cimarron River	Upper Gunnison	Gunnison	headwaters in the vicinity of E: 287899.31 N: 4233197.29	confl Little Cimarron River ar E: 284446.65 N: 4241814.80	6.45	1 (01/01 - 04/30) 2.8 (05/01 - 06/30) 1.2 (07/01 - 12/31)	
4	(increase)	Gold Creek	Tomichi	Gunnison	headwaters in the vicinity of E: 363395.53 N: 4284386.51	Tarkington Ditch hdgt at E: 359675.26 N: 4270404.77	10.32	4 (04/15 - 07/10)	

Totals for Water Division 4

Total # Appropriations = 3
Total # Appropriation Stream Miles = 18

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		Marvine Creek	Upper White	Rio Blanco	outlet of Lower Marvine Lake at E: 296243.96 N: 4424055.13	confl West Marvine Creek at E: 291464.01 N: 4432955.16	7.1	5.9 (11/01 - 03/31) 13.1 (04/01 - 10/31)	
6		North Fork White River	Upper White	Garfield	outlet of Trappers Lake at E: 309550.88 N: 4429787.37	confl Skinny Fish Creek at E: 308777.90 N: 4431907.38	1.52	2 (11/01 - 03/31) 3.5 (04/01 - 10/31)	
6		North Fork White River	Upper White	Garfield	confl Skinny Fish Creek at E: 308777.90 N: 4431907.38	confl Big Fish Creek at E: 305702.92 N: 4433402.35	2.47	7.8 (11/01 - 04/30) 34 (05/01 - 10/31)	
6		North Fork White River	Upper White	Garfield Rio Blanco	confl Big Fish Creek at E: 305702.92 N: 4433402.35	confl Ripple Creek at E: 300814.97 N: 4437555.31	4.38	23 (11/16 - 05/10) 74 (05/11 - 09/15) 60 (09/16 - 11/15)	
6	(increase)	Trout Creek	Upper Yampa	Routt	confl unnamed tributary at E: 323578.92 N: 4457645.23	Koll Ditch hdgt at E: 329133.88 N: 4464276.41	6.64	2 (11/01 - 03/31) 8 (04/01 - 07/31) 7 (08/01 - 10/31)	
6		West Marvine Creek	Upper White	Rio Blanco	headwaters in the vicinity of E: 295929.96 N: 4422407.10	West Marvine Ditch hdgt at E: 291578.55 N: 4432396.94	9.08	2.9 (11/01 - 03/31) 4.6 (04/01 - 10/31)	

Totals for Water Division 6

Total # Appropriations = 6
Total # Appropriation Stream Miles = 31.2

Instream Flow Tabulation - Water Division 7

Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(dates) (CFS)	Approp Date
7		Disappointment Creek	Upper Dolores	Dolores	confl Morrison Creek at E: 202844.92 N: 4194988.94	historic USGS gage at E: 184833.22 N: 4198182.88	21.71	1.8 (01/01 - 01/31) 2.6 (02/01 - 03/15) 14 (03/16 - 06/30) 8 (07/01 - 07/15) 5.8 (07/16 - 07/31) 2.2 (08/01 - 12/31)	
7		Disappointment Creek	Upper Dolores	Dolores San Miguel	historic USGS gage at E: 184833.22 N: 4198182.88	confl Dolores River at E: 162893.62 N: 4214275.33	37.8	5 (03/01 - 03/15) 9.8 (03/16 - 06/15) 5 (06/16 - 06/30)	

Totals for Water Division 7

**Total # Appropriations = 2
Total # Appropriation Stream Miles = 59.5**

Totals Divisions: 82 3 2 2/ 1 +

**Total # Appropriations = 15
Total # Appropriation Stream Miles = 125.3**