



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Section Chief
Kaylea White, Senior Water Resource Specialist
Stream and Lake Protection Section

DATE: March 20-21, 2019 Board Meeting

AGENDA ITEM: 7. Request for Approval of Water Conservation Program on San Miguel River

Introduction

The Nature Conservancy (“TNC”) has been working with the Silverhawk Ranch (“Ranch”), a water rights owner on the San Miguel River, to explore market-based opportunities to maintain flows on the San Miguel River while providing economic support to agricultural water users. This year, the Ranch and TNC plan to test a split-season fallowing arrangement whereby the Ranch will cease diverting certain of its decreed water rights. The Ranch has submitted a proposal to the CWCB requesting approval of this arrangement as a water conservation program to ensure protection of its subject water rights from a presumption of abandonment and reduction in historical consumptive use due to non-diversion.

Staff Recommendation

Staff recommends that the Board approve the Silverhawk Ranch proposal as a water conservation program subject to sections 37-92-103(2) and 37-92-305(3)(c), C.R.S. (2018).

Background

In 2005 and 2013, the General Assembly enacted bills to protect water rights used in a water conservation program from the presumption of abandonment and from a reduction in historical consumptive due to non-diversion of those water rights. Those bills were codified in the following statutory provisions: Section 37-92-103(2) defines “abandonment of a water right” and provides that “[a]ny period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining the abandonment of a water right for the duration that . . . nonuse of a water right by its owner is a result of participation in . . . a water conservation program approved by a state agency. . . .” Section 37-92-305(3)(c) provides that “[in] determining the amount of historical consumptive use for a water right in divisions 1, 2, 3, 4, 5, or 6, the water judge shall not consider any decrease in use resulting from . . . the nonuse or decrease in use of the water from the water right as a result of participation in . . . a water conservation program . . . approved in advance . . . by a water conservation district, water district, water authority, . . . water conservancy district, . . . or a state agency with explicit jurisdiction over water conservation or water rights.”



In 2005, the CWCB approved the Colorado River System Conservation Pilot Program as a water conservation program. The purpose of that Program was to explore and learn about the effectiveness of temporary, compensated, and voluntary water demand management actions. The Board also provided funding for specific water conservation activities as part of the water conservation program. That is the only water conservation program this Board has approved to date. The Colorado River Water Conservation District approves water conservation programs within its service area, and has approved seven such programs to date. Because this proposed split-season fallowing arrangement is located in an area that is not covered by the Colorado River Water Conservation District's program or any other existing water conservation programs, the Ranch has submitted this request for approval to the CWCB. The full request and a map showing the location of the subject diversion structures are attached to this memo.

Proposed Water Conservation Program

The Silverhawk Ranch, located on the San Miguel River near Naturita, Colorado, uses water from the San Miguel River to irrigate hay fields and to support a cow-calf operation. This year, TNC and the Ranch are testing a split-season fallowing arrangement and have entered into a non-diversion agreement under which TNC will compensate the Ranch for participating in this program. Currently, the Ranch diverts its decreed direct flow water rights from the Parkway/New Parkway diversion structure (decreed in Case Nos. CA1627, WO233, 02CW116, 02CW261, CA3785, CA7945, CA4641) and the Doing diversion structure (decreed in Case Nos. CA1627, CA4641, W2210) to irrigate hay fields on both sides of the San Miguel River. The non-diversion agreement provides that the Ranch will stop diverting its decreed water rights for the Parkway/New Parkway and Doing diversion structures on April 16, 2019 and refrain from diverting for the remainder of 2019. (Typically, the irrigation season in this area of the San Miguel River basin begins as early as March and can extend to as late as November). The Ranch will continue to irrigate portions of the property with the Ranch's water shares in the Highline Canal/CCC Ditch.

The estimated amount of water conserved under this water conservation program is approximately 1,600 acre-feet of diversions. This amount was estimated based on an engineering review of the historical average annual diversions of the Ranch's water rights for the Parkway/New Parkway and Doing ditches.

To verify implementation of the non-diversion agreement, TNC has installed photo point monitoring on the Ranch to document that diversions of water at the Doing and Parkway/New Parkway structures will cease starting on April 16, 2019. TNC and Ranch representatives will meet periodically to verify and document non-diversion at these structures. Additionally, the Ranch will rely upon the water commissioner's recordkeeping of the lack of diversions at these structures.



Proposal for Approval of Water Conservation Program

1. Introduction

Please accept this Proposal for Approval of Water Conservation Program under C.R.S. §§ 37-92-103(2), 37-92-305(3)(c) for the Silverhawk Ranch, located near Naturita, CO. The Silverhawk Ranch is requesting that the Colorado Water Conservation Board approve Silverhawk Ltd.'s enrollment in a water conservation program to provide protection from abandonment and reduction in historic consumptive use for the Silverhawk Ranch's water rights for the 2019 irrigation season.

2. Landowner Information

Silverhawk Ltd.
P.O. Box 98
Nucla, CO 81424
silverhawkranch@aol.com
(970) 864-2125

3. Proposed Water Conservation Program Project Description

The Silverhawk Ranch is located on the San Miguel River near Naturita, Colorado. The Silverhawk Ranch uses water from the San Miguel River to irrigate hay fields and to support a cow-calf operation on the ranch. The Silverhawk Ranch and The Nature Conservancy are collaborating to investigate market-based opportunities to maintain critical flows on the San Miguel River while providing economic support to agricultural water users. In 2019, the Silverhawk Ranch and The Nature Conservancy are testing a split-season fallowing arrangement where the Silverhawk Ranch will stop diverting its decreed water rights for the Parkway/New Parkway and Doing diversion structures on April 16, 2019. The Silverhawk Ranch will continue to irrigate portions of the ranch with the Silverhawk Ranch's water shares from the Highline Canal/CCC Ditch.

4. Project Location, Places of Use

See attached map for the project location. Currently, the Silverhawk Ranch diverts its decreed, direct flow water rights from the Parkway/New Parkway diversion structure (CA1627, WO233, 02CW116, 02CW261, CA3785, CA7945, CA4641) and the Doing diversion structure (CA1627, CA4641, W2210) to irrigate hay fields on both sides of the San Miguel River.

5. Estimated Amount of Conservation

Approximately 1600 AF of diversions. This amount was estimated based on an engineering review of the historic average annual diversions of the Silverhawk Ranch's water rights for the Parkway/New Parkway and Doing ditches.

6. Verification Method

The Nature Conservancy has set up photo point monitoring on the Silverhawk Ranch to verify that the Doing and Parkway/New Parkway structures will cease diversions starting on April 16, 2019. The Nature Conservancy and the Silverhawk Ranch will meet periodically to verify and document non-diversion at these structures.

7. Timeframe/Schedule

The Silverhawk Ranch's split season fallowing will start on April 16, 2019 and will remain for the duration of 2019. There is flexibility built into the fallowing agreement in case the Division of Water Resources exercises the alternate point of diversion at the Highline Canal/CCC Ditch (which may affect the fallowing schedule in 2019).

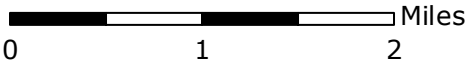
8. Funding Requested

The Silverhawk Ranch is not requesting funding from the Colorado Water Conservation Board for this project (and no public funding is being used in this project).

Silverhawk Ranch Diversion Structures



- Silverhawk Ranch Diversion Structures
- Streams/Rivers
- Ditch



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