



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 718, Denver, Colorado 80203

Phone: (303) 866-3441 * Fax: (303) 866-4474

www.cwcb.state.co.us

NOTICE

To: Instream Flow Subscription Mailing Lists

Subject: Proposed 2019 Instream Flow Appropriation in Water Division 7

Date: March 26, 2019

At its March 20-21, 2019 regular meeting, the Colorado Water Conservation Board (CWCB) declared its intent to appropriate an instream flow (ISF) water right on the segment of Himes Creek described in the ISF table below, which provides the water division, stream name, watershed, county, length, upper terminus, lower terminus, and flow rates for this stream segment.

Instream Flow Recommendation

Water Division	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow & Timing
7	Himes Creek	Upper San Juan	Mineral	2.0	headwaters	Himes Ditch headgate	All unappropriated flow (1/1-12/31)

Copies of the Instream Flow Recommendation and Appendices of data submitted into the Official CWCB Record are available for review by the public during regular business hours (8:00 a.m. - 5:00 p.m.) at the Colorado Water Conservation Board's Office, located at 1313 Sherman Street, Room 718, Denver, Colorado, 80203. In addition to the CWCB office, copies of this Instream Flow Recommendation are available online at:

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

In addition to the above Instream Flow Recommendation Summary Report and Appendices, staff may rely on any additional data, exhibits, testimony, or other information submitted by any party as part of the Official CWCB Record to support its Instream Flow Recommendations. Pursuant to Rule 5d.(3) of the [Rules Concerning the Colorado Instream Flow and Natural Lake Level Program adopted by the Colorado Water Conservation Board](#), it should also be noted that:

(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 May 31, 2019. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than July 1, 2019.

(e) Staff will announce its Final Staff Instream Flow Recommendation concerning contested appropriations at the November 2019 Board meeting and, prior to that meeting, 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 July 2019 Board meeting.

A notice to contest an ISF appropriation must be made in writing and contain the following information: (a) identification of the Person(s) requesting the hearing; (b) identification of the ISF at issue; and (c) the contested facts and a general description of the data upon which the Person will rely to the extent known at that time.

Note that section 37-92-102 (3) (b), C.R.S. (2018) provides: “Any such appropriation shall be subject to the present uses or exchanges of water being made by other water users pursuant to appropriation or practices in existence on the date of such appropriation, whether or not previously confirmed by court order or decree.”

Should you wish to comment on the proposed ISF Recommendation or request more information on the applicability of section 37-92-102(3)(b) to present uses of water in or above the proposed instream flow segment, you may do so by writing Rob Viehl of the Board's staff at the address given above or via email to rob.viehl@state.co.us. It should be noted that while your appearance at any meeting is welcome, such an appearance is not necessary for your concerns to be recognized. Staff will take your comments into account and, if you so request, will present them to the Board in your absence. If you are not currently on the Board's Instream Flow Subscription Mailing List and you would like to be, please contact Rob Viehl, or sign up online at:

<https://dnrweb.state.co.us/DNR/DNRPortal/Login.aspx>