



Five Rivers Chapter

February 22, 2019

Colorado Water Conservation Board
1313 Sherman St., Room 718
Denver, CO 80203
Via email rob.viehl@state.co.us

Re: Proposed Instream Flow Appropriation for Himes Creek

Dear Board Members,

We are writing on behalf of Trout Unlimited and the Five Rivers Chapter of Trout Unlimited (jointly referred to as TU) to urge you to adopt the instream flow appropriation for Himes Creek recommended by the U.S. Forest Service and supported by Colorado Parks and Wildlife (CPW) and the CWCB staff.

Preservation of native trout species and their habitat is a priority for TU's members who have dedicated hundreds of volunteer hours in reintroduction efforts, including efforts in southwest Colorado. It was with great joy that we received the news that a species of native San Juan cutthroat trout thought to be extinct had been discovered in a few drainages in the San Juan Mountains. The news was a cause of celebration for the entire community and reported by the area's major newspapers, <https://durangoherald.com/articles/249973>; <https://durangoherald.com/articles/239945#modal=in-article-images-modal-386766,slide=undefined>; <http://www.pagosasun.com/unique-cutthroat-trout-discovered-in-southwest-colorado/>; <https://www.9news.com/article/news/local/this-type-of-trout-was-supposed-to-be-extinct-but-it-was-found-in-southwest-colorado/73-591533154>

Himes Creek supports one of only eight identified populations of these very rare native species. Preserving sufficient flows to ensure their survival is of critical importance.

CPW, the state's biological expert agency, has determined that, given the physical characteristics of Himes Creek, using the R2Cross methodology usually relied upon by

the CWCB is not possible due to the lack of riffle habitat. The species needs flows that are sufficient to ensure the perpetual existence and maintenance of the pool habitat that is critical for its survival. CPW has determined that, in the case of Himes Creek, "the full range of available flows is needed to ensure the protection of this critical low flow habitat into the future." *Himes Creek Habitat Survey and Inventory Report (Skinner 2018)*.

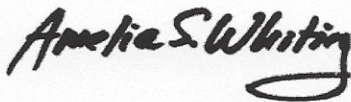
We urge the CWCB to follow the recommendations of the state's biological experts.

We understand that concerns have been expressed about the different approach from the usual R2Cross methodology. However, the CWCB is empowered to appropriate "minimum flows necessary to protect the natural environment to a reasonable degree." There is no specific methodology mandated to the CWCB to calculate the needed minimum flows. Here, expert determinations have been made as to the minimum flows needed and no counter argument has been made that a lesser amount will be protective.


TU does not assert that the approach recommended for Himes Creek should be generally applied. Nor do we agree with the argument that by applying it here, the CWCB is opening the door to unbridled instream flow appropriations in the future. The CWCB has proven to be very judicious in its appropriations and in the very few instances when it has gone beyond the R2Cross methodology, it has done so based on very specific facts dictating the need for a different approach. Such is the case with Himes Creek, where the R2Cross methodology is not capable of determining the flows needed to maintain the life-saving pools.

Thank you for the opportunity to weigh in. We appreciate the CWCB's efforts and trust that you will do what's needed to help preserve these rare species once thought to be lost.

Sincerely,



Mely Whiting
Legal Counsel, Colorado Water Project
Trout Unlimited



Frank (Buck) Skillen, President
Five Rivers Chapter
Trout Unlimited