



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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NOTICE

To: Instream Flow Subscription Mailing Lists

Subject: Proposed 2023 Instream Flow Appropriations in Water Division 4

Date: March 21, 2023

At its March 15-16, 2023 regular meeting, the Colorado Water Conservation Board (CWCB) declared its intent to appropriate instream flow (ISF) water rights on four stream segments. The attached ISF table provides the water division, stream name, watershed, county, length, upper terminus, lower terminus, and flow rates for all these stream segments. Copies of the ISF Recommendation Letter, staff summary reports and appendices of data submitted into the official CWCB record are available online at: <https://cwcb.colorado.gov/2023-isf-recommendations>. Information can also be reviewed by appointment at the CWCB's Office, located at 1313 Sherman Street, Room 718, Denver, Colorado, 80203.

In addition to the ISF Recommendation summary reports and appendices of data, 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 ISF 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, 2023. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than June 30, 2023.

(e) Staff will announce its Final staff ISF Recommendations concerning contested appropriations at the November 2023 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 2023 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. 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.” For more information on whether this provision applies to specific undecreed uses of water in or above the proposed ISF segments, and potential recognition of such uses in the CWCB’s water court decree, contact Rob Viehl at the CWCB address noted above or via email to rob.viehl@state.co.us.

To comment on the proposed ISF Recommendations, you may do so by writing Rob Viehl at the address or email given above. 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 consider your comments and present them to the Board in your absence. If you are not currently on the Board's ISF Subscription Mailing List and you would like to be, please sign up at: <https://dwr.state.co.us/Portal/Login/>

Instream Flow Appropriations: These water rights would only be in effect April 1st through September 30th when the specified flow conditions are met.

| Water Division | Stream | Watershed | County | Length (miles) | Upper Terminus | Lower Terminus |
|----------------|--------------------------------|---|-----------------|----------------|---------------------------------|----------------------------|
| 4 | Cottonwood Creek (Increase) | Lower Gunnison | Delta, Montrose | 23.3 | Hawkins Ditch headgate | confluence Roubideau Creek |
| | | ISF protection initiates at 183 cfs and protects all unappropriated streamflow until flow rates recede to the existing 3.6 cfs ISF rate or 9/30, whichever occurs first. | | | | |
| 4 | Monitor Creek (Increase) | Lower Gunnison | Montrose | 8.29 | confluence Little Monitor Creek | confluence Potter Creek |
| | | ISF protection initiates at 111 cfs and protects all unappropriated streamflow until flow rates recede to the pending ISF of 4.6 cfs (4/1 - 5/31), 3.6 cfs (6/1 - 6/30) or 3.6 cfs if outside of these times or 9/30, whichever occurs first. | | | | |
| 4 | Potter Creek (Increase) | Lower Gunnison | Montrose | 8.10 | USFS property boundary | confluence Monitor Creek |
| | | ISF protection initiates at 177 cfs and protects all unappropriated streamflow until flow rates recede to the existing ISF of 4 cfs (4/1 - 6/15), 1.8 cfs (6/16 - 7/31), 1.4 cfs (8/1 - 2/29), or until 9/30, whichever occurs first. | | | | |
| 4 | Potter Creek (Increase) | Lower Gunnison | Montrose | 1.72 | confluence Monitor Creek | confluence Roubideau Creek |
| | | ISF protection initiates at 225 cfs and protects all unappropriated streamflow until flow rates recede to the existing ISF of 4 cfs (4/1 - 6/15), 1.8 cfs (6/16 - 7/31), 1.4 cfs (8/1 - 2/29), or until 9/30, whichever occurs first. | | | | |