



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

P (303) 866-3441
F (303) 866-4474

Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Robert Viehl
Chief, Stream and Lake Protection Section

DATE: September 15, 2021

**AGENDA ITEM: 11. Final Action - 2021 Contested ISF Appropriation on Rincon la Vaca Creek
(Water Division 7)**

Staff recommendation

Staff requests that the Board make the following determinations and take the following action on the Rincon La Vaca Creek instream flow (ISF) appropriation identified in Table 1. The information necessary to support these determinations is contained in this memo, the recommendation letter, and documentation submitted by Colorado Parks and Wildlife (CPW), and in staff's oral and written presentations provided at the January 25, 2021 Board meeting.

(1) Determine, pursuant to section 37-92-102(3), C.R.S. that for the Rincon La Vaca Creek ISF appropriation identified in Table 1:

- (a) There is a natural environment that can be preserved to a reasonable degree with the recommended water rights, if granted;
- (b) The natural environment will be preserved to a reasonable degree by the water available for the recommended appropriations; and
- (c) Such natural environment can exist without material injury to water rights.

(2) Pursuant to ISF Rule 5f., establish January 25, 2021 as the appropriation date for this water right

(3) Direct staff to work with the Attorney General's office to file an application for this water right in water court by the end of the calendar year.

Table 1

Waterbody	Water Division	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount (cfs)
Rincon La Vaca Creek	7	Upper San Juan	Hinsdale	Headwaters in the vicinity of E: 288830.29 N: 4170340.18	Confluence Los Pinos River at E: 294776.30 N: 4171003.14	4.47	1.2 (11/1-4/30) 2.8 (05/01-10/31)



Background

CPW recommended this segment on Rincon La Vaca Creek for inclusion into the CWCB's Instream Flow and Natural Lake Level Program at the January 25, 2017 ISF workshop.

On January 25, 2021, the CWCB formed its intent to appropriate ISF water rights on a segment of Rincon La Vaca Creek.

On March 31, 2021, the Southwestern Water Conservation District (SWCD) filed a notice to contest this ISF appropriation. No other entities filed for Party status or Hearing Participant status and the deadline to do so has passed.

On July 17, 2021, CWCB staff, CPW, and SWCD signed a Stipulation and Agreement in this matter.

On July 19, 2021, SWCD withdrew its notice to contest the ISF appropriation on Rincon Lava Creek.

On July 19, 2021 the Hearing Officer vacated the hearing and associated prehearing deadlines and returned the matter to the CWCB for further administrative action.

Technical Investigations

The Board was provided detailed information regarding all field data, studies, and analyses for the recommended Rincon La Vaca Creek stream segment at its January 25, 2021 Board meeting. A brief overview of the analyses is provided below.

Natural Environment Studies

CPW conducted field surveys on Rincon La Vaca Creek and found a natural environment that can be preserved to a reasonable degree. To quantify the resources and to evaluate instream flow requirements, CPW collected and analyzed biologic and hydraulic data. CWCB staff reviewed all analyses and prepared a recommendation for the amount of water necessary to preserve the natural environment to a reasonable degree for Rincon La Vaca Creek.

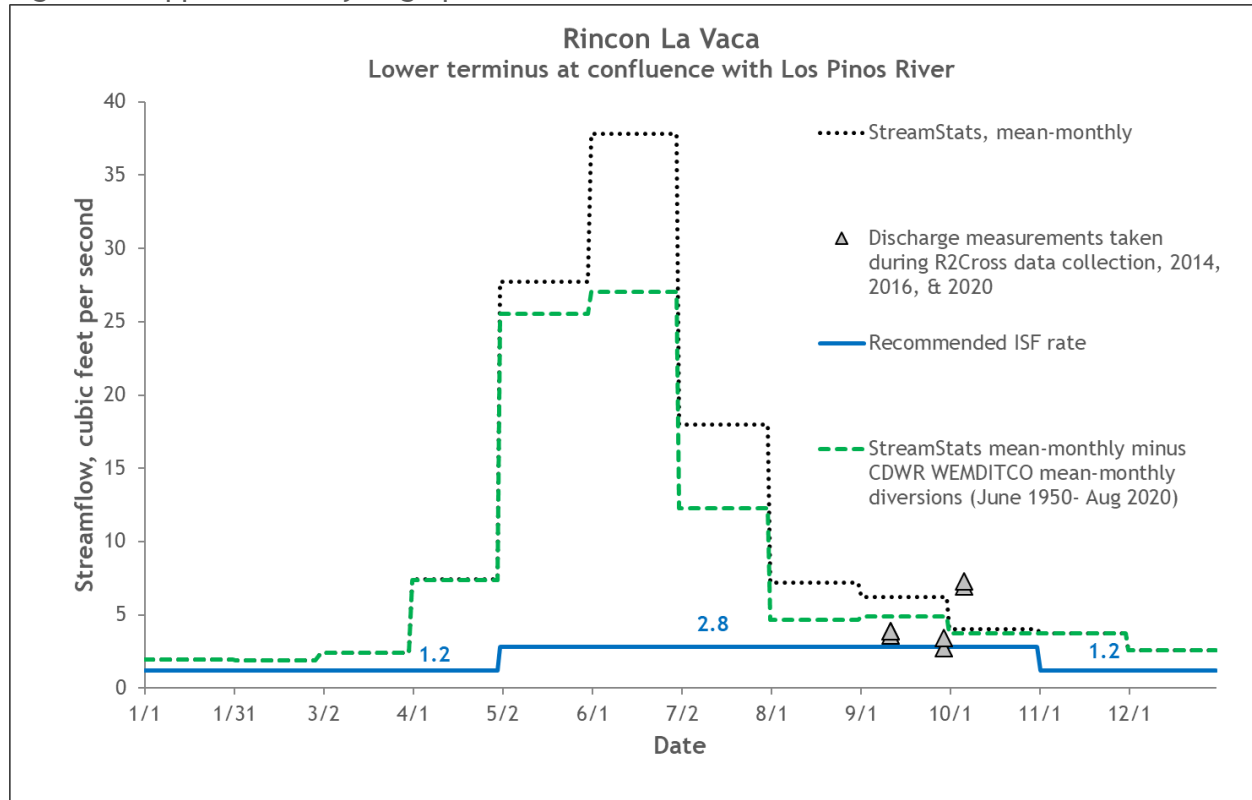
Water Availability Studies

CWCB staff conducted an evaluation of water available for the Rincon La Vaca Creek recommendation. To determine the amount of water physically available for the Board's appropriation, staff analyzed available streamflow models and streamflow measurement records. In addition, staff analyzed existing water rights and consulted with the Division Engineer's Office to identify any potential water availability issues. Staff used this information to develop a hydrograph showing the amount of water available for the recommendation. Based upon its analysis, staff determined that water is available for appropriation on the recommended reach of Rincon La Vaca Creek to preserve the natural environment to a reasonable degree without limiting or foreclosing the exercise of existing water rights.

In discussions with CWCB staff and CPW, SWCD requested further clarification on staff's water availability analysis and the interplay between the Weminuche Pass Ditch and the Rincon La Vaca ISF. CWCB staff clarified that it is not contemplating an agreement with CPW in regards to its Weminuche Pass Ditch water rights, and no agreement is required to meet the water availability requirement for this ISF. To more effectively illustrate the water availability analysis, CWCB staff provided a revised hydrograph and a more detailed description of the analysis to SWCD.

The revised hydrograph, shown in Figure 1, displays the mean-monthly flow estimate from StreamStats, the proposed ISF rates, and a green dashed line that shows the StreamStats mean-monthly flow estimate minus the mean-monthly diversions from the Weminuche Pass Ditch. This hydrograph demonstrates that this ISF appropriation does not rely on Weminuche Pass Ditch operations and that water is available for appropriation. In the Stipulation and Agreement, the parties agreed that the water availability analysis and hydrograph demonstrate there is sufficient water available for appropriation of the Rincon La Vaca ISF based on the information provided by CWCB staff.

Figure 1. Supplemental Hydrograph



Relevant Instream Flow Rules

5f. Date of Appropriation. The Board may select an appropriation date that may be no earlier than the date the Board declares its intent to appropriate. The Board may declare its intent to appropriate when it concludes that it has received sufficient information that reasonably supports the findings required in Rule 5i.

5h. Final Board Action on an ISF Recommendation. The Board may take final action on any uncontested Staff Recommendation(s) at the May Board meeting or any Board meeting thereafter. If a Notice to Contest has been filed, the Board shall proceed under Rule 5j-5q.

5i. Required Findings. Before initiating a water right filing to confirm its appropriation, the Board must make the following determinations:

- (1) Natural Environment. That there is a natural environment that can be preserved to a reasonable degree with the Board's water right if granted.

- (2) Water Availability. That the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made.
- (3) Material Injury. That such environment can exist without material injury to water rights.

These determinations shall be subject to judicial review in the water court application and decree proceedings initiated by the Board, based on the Board's administrative record and utilizing the criteria of section 24-4-106(6) and (7), C.R.S.

Attachments

- 1) Stipulation and Agreement between the Colorado Water Conservation Board Staff, the Southwestern Water Conservation District and Colorado Parks and Wildlife.
- 2) Withdrawal of Notice to Contest Instream Flow Appropriation on Rincon La Vaca Creek.
- 3) Order Regarding Unopposed Motion to Vacate Hearing and Prehearing Deadlines and Prehearing Conference.

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER
DIVISION NO. 7:**

RINCON LA VACA CREEK

**STIPULATION AND AGREEMENT BETWEEN THE COLORADO WATER
CONSERVATION BOARD STAFF, THE SOUTHWESTERN WATER
CONSERVATION DISTRICT AND COLORADO PARKS AND WILDLIFE**

The Southwestern Water Conservation District (SWCD), Colorado Parks and Wildlife (CPW) and staff of the Colorado Water Conservation Board (CWCB), by and through their respective counsel, hereby stipulate and agree as follows:

1. CWCB staff and CPW recommended the CWCB Board appropriate an instream flow right on Rincon La Vaca Creek, in the amount of 2.8 cfs from May 1 through October 31 and 1.2 cfs from November 1 through April 30, with an upper terminus located at the headwaters in the vicinity of UTM North: 4170340.18 UTM East: 288830.29 and the lower terminus at the confluence with the Los Pinos River located at UTM North: 4171003.14 UTM East: 294776.30 (the “Rincon La Vaca ISF”), Water Division 7. The proposed instream flow reach is approximately 4.47 miles and is located entirely within the Weminuche Wilderness of the San Juan National Forest.
2. The CWCB declared its intent to appropriate the Rincon La Vaca ISF at its meeting in January of 2021.
3. SWCD timely filed a Notice to Contest. No other party filed a Notice to Contest or filed for Contested Hearing Participant status.
4. The proposed instream flow appropriation is located on Rincon La Vaca Creek, which is tributary to the Los Pinos River (aka, the Pine River) and included within SWCD’s boundaries. As described in its Notice to Contest, SWCD has no objection to the CWCB appropriating a junior instream flow right at the headwaters of Rincon La Vaca Creek. However, SWCD filed a Notice to Contest because SWCD was unable to understand some of the information regarding the instream flow appropriation as presented.
5. SWCD subsequently engaged in several discussions with CWCB staff and CPW.

6. As a result of these discussions, CWCB staff created a hydrograph that, along with showing estimates of mean monthly streamflow, also accounts for the mean-monthly diversions through the Weminuche Pass Ditch, a diversion structure located within the proposed instream flow reach that is owned and operated by CPW. The parties agree that the water availability analysis and hydrograph demonstrate there is sufficient water available for appropriation of the Rincon La Vaca ISF based on the information provided by CWCB staff.
7. CWCB staff agrees to present its Board with the water availability analysis and above-referenced hydrograph to demonstrate that water is available for appropriation of the Rincon La Vaca ISF. Staff's continued recommendation is based on the water availability analysis and the hydrograph.
8. CPW recommended the Rincon La Vaca ISF because of its interest in sustaining the cutthroat trout fishery in Rincon La Vaca Creek, and a new ISF reach could provide additional opportunities to protect the fishery. CPW continues to support the appropriation of the Rincon La Vaca ISF. CPW intends to continue to consider possible concepts that could provide supplemental water to the ISF once it is decreed.
9. SWCD continues to support the CWCB's and CPW's efforts to protect the natural environment on Rincon La Vaca Creek throughout the entire proposed instream flow reach. Based on the foregoing, SWCD agrees to withdraw its Notice to Contest.
10. The parties shall each bear their own attorney fees and costs associated with this matter.
11. This Stipulation and Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

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Stipulated and agreed to this 17th day of July, 2021.

OFFICE OF THE COLORADO
ATTORNEY GENERAL
*Attorney for Staff of the Colorado Water
Conservation Board*



Jennifer Mele, #30720

OFFICE OF THE COLORADO ATTORNEY
GENERAL
Attorney for Colorado Parks and Wildlife



Elizabeth M. Joyce, #46484

VAN VURST LAW, LLC
*Attorney for the Southwestern Water
Conservation District*



Beth Van Vurst, #36931

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2021, I transmitted by electronic mail a true and correct copy of the foregoing **STIPULATION AND AGREEMENT BETWEEN THE COLORADO WATER CONSERVATION BOARD STAFF, THE SOUTHWESTERN WATER CONSERVATION DISTRICT AND COLORADO PARKS AND WILDLIFE** to the following:

Hearing Officer

Amy Beatie
Deputy Attorney General
Natural Resources & Environment Section
Office of the Colorado Attorney General
1300 Broadway, 7th Floor
Denver, Colorado 80203
720-508-6296
Amy.Beatie@coag.gov

Party Status

<u>Colorado Water Conservation Board</u> Rob Viehl Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 303-866-3441 ext. 3237 rob.viehl@state.co.us	<u>Colorado Water Conservation Board</u> Jennifer Mele First Assistant Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6282 jen.mele@coag.gov
<u>Colorado Parks and Wildlife</u> Elizabeth Joyce Colorado Parks and Wildlife Area Office 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 elizabeth.joyce@coag.gov	<u>Southwestern Water Conservation District</u> Beth Van Vurst Van Vurst Law, LLC 822 S. Race Street Denver, Colorado 80209 720-664-6442 beth@vanvurst-law.com



Beth Van Vurst

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER
DIVISION NO. 7:**

RINCON LA VACA CREEK

**WITHDRAWAL OF NOTICE TO CONTEST INSTREAM FLOW APPROPRIATION
ON RINCON LA VACA CREEK**

The Southwestern Water Conservation District (SWCD), by and through its undersigned counsel, hereby withdraws its Notice to Contest the instream flow appropriation for Rincon La Vaca Creek (CWCB ID: 18/7/A-002). SWCD is withdrawing its Notice to Contest because it has entered into a Stipulation with Colorado Water Conservation Board (CWCB) staff and Colorado Parks and Wildlife (CPW) regarding this matter, which provides for such withdrawal and is being filed concurrently herewith. Therefore, pursuant to paragraph 9 of the Stipulation, SWCD hereby withdraws its Notice to Contest.

Respectfully submitted this 19th day of July, 2021.

By:



Beth Van Vurst, #36931
Van Vurst Law, LLC
Telephone: (720) 664-6442
Email: beth@vanvurst-law.com

*Attorney for the Southwestern Water
Conservation District*

CERTIFICATE OF SERVICE


I hereby certify that on this 19th day of July, 2021, I transmitted by electronic mail a true and correct copy of the foregoing **WITHDRAWAL OF NOTICE TO CONTEST INSTREAM FLOW APPROPRIATION ON RINCON LA VACA CREEK** to the following:

Hearing Officer

Amy Beatie Deputy Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, Colorado 80203 720-508-6296 Amy.Beatie@coag.gov

Party Status

<u>Colorado Water Conservation Board</u> Rob Viehl Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 303-866-3441 ext. 3237 rob.viehl@state.co.us	<u>Colorado Water Conservation Board</u> Jennifer Mele First Assistant Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6282 jen.mele@coag.gov
<u>Colorado Parks and Wildlife</u> Elizabeth Joyce Colorado Parks and Wildlife Area Office 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 elizabeth.joyce@coag.gov	<u>Southwestern Water Conservation District</u> Beth Van Vurst Van Vurst Law, LLC 822 S. Race Street Denver, Colorado 80209 720-664-6442 beth@vanvurst-law.com



Beth Van Vurst

BEFORE THE COLORADO WATER CONSERVATION BOARD

**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION
DIVISION NO. 7: RINCON LA VACA CREEK**

**ORDER REGARDING UNOPPOSED MOTION TO VACATE HEARING AND ASSOCIATED
PREHEARING DEADLINES AND PREHEARING CONFERENCE**

THIS MATTER comes before the Hearing Officer on the Unopposed Motion to Vacate Hearing and Associated Prehearing Deadlines and Prehearing Conference filed by the Staff of the Colorado Water Conservation Board (“CWCB Staff”). The Hearing Officer, having reviewed the notice and motion, and being otherwise adequately advised, GRANTS the motion.

The Hearing Officer finds that good cause exists and the case will be best served if the hearing and associated prehearing deadlines and prehearing conference are vacated.

The Prehearing Conference scheduled for July 19, 2021, is hereby VACATED.

The Hearing in this matter set for September 15-16, 2021, is hereby VACATED.

The Deadlines for Prehearing Statements and Rebuttal Statements are hereby VACATED.

This matter is returned to the Colorado Water Conservation Board for further administrative action.

Dated this 19th day of July, 2021.

By the Hearing Officer:

/s/ Amy W. Beatie

Amy W. Beatie
Deputy Attorney General
Colorado Attorney General’s Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6295
Amy.Beatie@coag.gov

Certificate of Service

Contested CWCB ISF Appropriation on Rincon La Vaca Creek

I hereby certify that on July 19th, 2021, a true and correct copy of the foregoing **ORDER REGARDING UNOPPOSED MOTION TO VACATE HEARING AND ASSOCIATED PREHEARING DEADLINES AND PREHEARING CONFERENCE** was served via email to the parties referenced in the Party Status below:

Hearing Officer

Amy Beatie
Deputy Attorney General
Natural Resources & Environment Section
Office of the Colorado Attorney General
1300 Broadway, 7th Floor
Denver, Colorado 80203
720-508-6296
amy.beatie@coag.gov
cc: john.watson@coag.gov

Party Status

<u>Colorado Water Conservation Board</u> Rob Viehl Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 303-866-3441 ext. 3237 rob.viehl@state.co.us	<u>Colorado Water Conservation Board</u> Jennifer Mele First Assistant Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6282 jen.mele@coag.gov
<u>Colorado Parks and Wildlife</u> Katie Birch DOI, BLM, Colorado State Office 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 katie.birch@state.co.us	<u>Southwestern Water Conservation District</u> Beth Van Vurst Van Vurst Law, LLC 822 S. Race Street Denver, Colorado 80209 720-664-6442 beth@vanvurst-law.com

/s/ John Watson
John Watson



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**Colorado Water
Conservation Board**

Department of Natural Resources

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Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Robert Viehl
Chief, Stream and Lake Protection Section

DATE: July 21, 2021

AGENDA ITEM: 7. Update on Contested ISF Appropriation on Rincon la Vaca Creek in Water Division 7

Staff recommendation:

This is an informational item only and no Board action is being sought at this time.

Background:

CPW recommended a segment on Rincon La Vaca Creek for inclusion into the CWCB's Instream Flow and Natural Lake Level Program at the January 25, 2017 ISF workshop.

On January 25, 2021, the CWCB formed its intent to appropriate ISF water rights on this segment of Rincon La Vaca Creek.

On March 31, 2021, the Southwestern Water Conservation District, filed a notice to contest this ISF appropriation. No other entities filed for Party status or Hearing Participant status and the deadline to do so has passed.

The Hearing Officer established the following deadlines for written submissions, designation of witnesses and exhibits, and the date of the prehearing conference:

July 12, 2021 prehearing statements from Parties are due.

July 19, 2021 the prehearing conference is scheduled to take place.

August 16, 2021 rebuttal statements are due.

The ISF hearing in this matter is scheduled to occur at the September 15-16, 2021 Board meeting.

CWCB staff have been working in conjunction with CPW to resolve the concerns raised by the sole objector in this matter. Staff will provide an update in their presentation of any progress to resolve this contested appropriation and any modifications to the deadlines the Hearing Officer has established.





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Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Robert Viehl, Chief
Stream and Lake Protection Section

DATE: May 19, 2021

AGENDA ITEM: 7. Contested 2021 Instream Flow Appropriation in Water Division 7

Staff Recommendation: Staff recommends that the Board designate Deputy Attorney General Amy Beatie as the Hearing Officer for the contested instream flow appropriation on Rincon La Vaca Creek and set the hearing date to be held in conjunction with the Board's September 15-16, 2021 meeting.

Background: The following table describes the Board's January 2021 instream flow appropriation on Rincon La Vaca Creek, which the Southwestern Water Conservation District has contested. Staff has been in contact with the District's representatives to explore whether any of their concerns can be resolved in order to avoid the need for a hearing. Information submitted during the contested hearing process will be available on CWCB's website at: <https://cwcb.colorado.gov/2021-contested-instream-flow-appropriations>

Stream	County	Length (mi)	Flow Rate (cfs)	Parties
Rincon La Vaca Creek (Headwaters to confluence with the Los Pinos River)	Hinsdale	4.47	1.2 (11/01 - 04/30) 2.8 (05/01 - 10/31)	<u>Notice to Contest</u> Southwestern Water Conservation District





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Colorado Water Conservation Board

Department of Natural Resources

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Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Rob Viehl, Water Resource Specialist
Stream and Lake Protection Section

DATE: March 10, 2021

AGENDA ITEM: 5. Public Comment on 2021 Instream Flow Appropriations in Water Divisions 1, 4, and 7

Staff Recommendation: This is an informational item with no Board action required.

Background: At its January 25, 2021 meeting, the Board declared its intent to appropriate 5 instream flow (ISF) water rights. The purpose of this agenda item is to provide notice to the public of these proposed appropriations (see table below), and to provide an opportunity for public comment pursuant to Rule 5e. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (ISF Rules). Staff provided notice to the ISF Subscription Mailing list of the proposed appropriations on January 29, 2021. Detailed information regarding these stream segments is available on the CWCB website located at: <https://cwcb.colorado.gov/2021-isf-recommendations>

Anyone wishing to contest one or more of these ISF appropriations must file a Notice to Contest with the Board, pursuant to ISF Rule 5k., by March 31, 2021. Staff will ask the Board to take final action on all uncontested ISF appropriations at its May 2021 meeting.

Proposed Instream Flow Appropriations

Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate, cfs/Timing
1	Dry Gulch	Clear Creek	Clear Creek	2.83	headwaters	confluence Clear Creek	0.67 (01/01 - 04/30) 5.4 (05/01 - 07/31) 2 (08/01 - 09/30) 0.85 (10/01 - 12/31)
1	North Fork Little Thompson River	Big Thompson	Larimer	3.77	confluence Hell Canyon Creek	confluence Little Thompson River	5 (04/25 - 06/10) 2 (06/11 - 06/30)
1	Redstone Creek	Big Thompson	Larimer	16.3	headwaters	confluence Buckhorn Creek	6.2 (05/01 - 06/15)
4	Elk Creek	East-Taylor	Gunnison	2.66	headwaters	confluence Coal Creek	0.2 (08/16 - 04/30) 1.5 (05/01 - 07/10) 0.65 (07/11 - 08/15)
7	Rincon La Vaca Creek	Upper San Juan	Hinsdale	4.47	headwaters	confluence Los Pinos River	1.2 (11/01 - 04/30) 2.8 (05/01 - 10/31)





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Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Chief
Robert Viehl, Water Resource Specialist
Stream and Lake Protection Section

DATE: January 25, 2021

AGENDA ITEM: 17. 2021 Instream Flow Appropriations in Water Divisions 1, 4, 6, & 7

Introduction

This memo provides an overview of the technical analyses performed by the recommending entities and CWCB staff on instream flow (ISF) recommendations in Water Divisions 1, 4, 6, and 7. This work was conducted to provide the Board with sufficient information to declare its intent to appropriate ISF water rights in accordance with the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (ISF Rules). The Board was also provided with an executive summary for each recommended stream segment. The executive summaries contain the technical basis for each appropriation along with 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 ISF segment to ensure that 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 seven stream segments. These stream segments are located in Water Divisions 1 (Clear Creek and Larimer Counties), 4 (Gunnison County), 6 (Routt County), and 7 (Hinsdale County).

Technical Investigations

Staff's executive summary and technical analysis of each stream segment form the basis for staff's recommendations. In addition, the scientific data and technical analyses performed by the recommending entity are accessible on the Board's website at:

<https://cwcb.colorado.gov/2021-isf-recommendations>



Natural Environment Studies

The Bureau of Land Management, Colorado Parks and Wildlife, and High Country Conservation Advocates documented 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 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 flow rates of water necessary to preserve the natural environment to a reasonable degree.

Water Availability Studies

To determine the amount of water physically available for the recommended 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 segment listed on the tabulation of instream flow recommendations to preserve the natural environment to a reasonable degree.

On some of these streams, CWCB staff suggested modifications to the R2Cross biological flow 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 and the original R2Cross results, and evaluating flow needs 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 2020 to the ISF subscription mailing list, gave presentations to County Commissioners for each county where the stream segments are located, and contacted landowners adjacent to the proposed ISF reaches via phone or mail. In addition, staff contacted water commissioners, water right holders, 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.

Colorado Water Conservation Board Instream Flow Tabulation - Streams Water Division 1



Water

Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount/(Dates) (CFS)	Approp Date
1		Dry Gulch	Clear	Clear Creek	headwaters in the vicinity of E: 421166.28 N: 4395039.45	confl Clear Creek at E: 425249.35 N: 4394414.43	2.83	0.67 (01/01 - 04/30) 5.4 (05/01 - 07/31) 2 (08/01 - 09/30) 0.85 (10/01 - 12/31)	
1		North Fork Little Thompson River	Big Thompson	Larimer	confl Hell Canyon Creek at E: 473124.37 N: 4465680.11	confl Little Thompson River at E: 474370.33 N: 4461361.09	3.77	5 (04/25 - 06/10) 2 (06/11 - 06/30)	
1		Redstone Creek	Big Thompson	Larimer	headwaters in the vicinity of E: 472174.81 N: 4496738.38	confl Buckhorn Creek at E: 482372.71 N: 4480748.18	16.33	6.2 (05/01 - 06/15)	

Totals for Water Division 1

**Total # Appropriations = 3
Total # Appropriation Stream Miles = 22.9**

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		Elk Creek	East-Taylor	Gunnison	headwaters in the vicinity of E: 320535.44 N: 4306042.49	confl Coal Creek at E: 321286.22 N: 4302804.98	2.66	0.2 (08/16 - 04/30) 1.5 (05/01 - 07/10) 0.65 (07/11 - 08/15)	
4		Wildcat Creek	East-Taylor	Gunnison	outlet of Green Lake at E: 323800.20 N: 4301420.95	confl Coal Creek at E: 325687.24 N: 4304206.95	2.48	0.35 (12/01 - 03/31) 0.65 (04/01 - 04/30) 2.1 (05/01 - 08/31) 0.6 (09/01 - 11/30)	

Totals for Water Division 4

Total # Appropriations = 2
Total # Appropriation Stream Miles = 5.1

Instream Flow Tabulation - Water Division 6

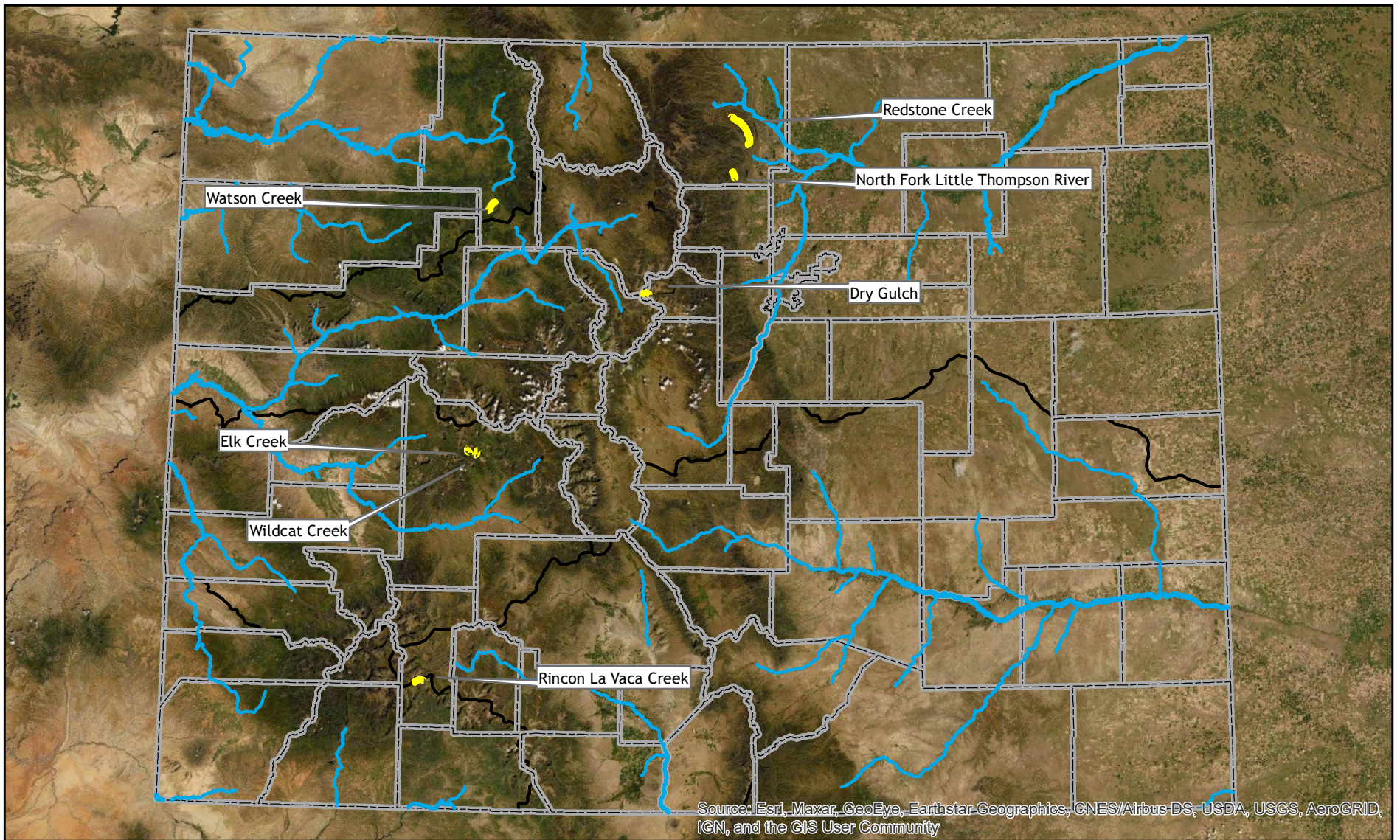
Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(/Dates) (CFS)	Approp Date
6		Watson Creek	Upper Yampa	Routt	confl Moody Creek at E: 331641.39 N: 4442915.57	Hardscrabble Ditch hdgt E: 335946.66 N: 4447907.65	5.86	1.1 (01/01 - 03/31) 1.9 (04/01 - 06/21) 1.1 (08/16 - 12/31)	

Totals for Water Division 6

Total # Appropriations = 1
Total # Appropriation Stream Miles = 5.9

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		Rincon La Vaca Creek	Upper San Juan	Hinsdale	headwaters in the vicinity of E: 288830.29 N: 4170340.18	confl Los Pinos River at E: 294776.30 N: 4171003.14	4.47	1.2 (11/01 - 04/30) 2.8 (05/01 - 10/31)	
Totals for Water Division 7					Total # Appropriations = 1 Total # Appropriation Stream Miles = 4.5				
Totals Divisions: 1 - 7					Total # Appropriations = 7 Total # Appropriation Stream Miles = 38.4				



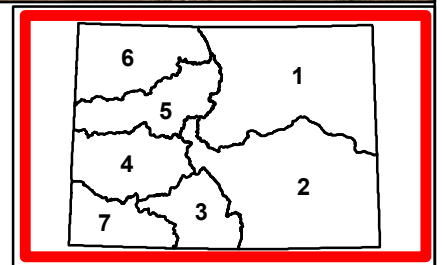
COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

January 25, 2021
ISF Recommendations

0 30 60 120
Miles



LARIMER COUNTY | NATURAL RESOURCES

1800 S. County Road 31, Loveland, CO 80537, (970) 619-4570, larimer.org/naturalresources

January 13, 2021

Linda Bassi
Colorado Water Conservation Board
Stream and Lake Protection Section
1313 Sherman Street, 7th Floor
Denver, CO 80203

Re: Instream flow right designations in Larimer County

Dear Ms. Bassi,

On behalf of the Larimer County Department of Natural Resources, I am pleased to submit this letter in support of the proposed instream flow rights on Redstone Creek and the North Fork of the Little Thompson River in Larimer County. Our department strives to protect and promote valuable wildlife habitat, healthy riparian areas, and ecological value and these designations will help further those efforts.

Redstone Creek flows through a portion of land that Larimer County and the City of Fort Collins recently conserved. This land is now part of Horsetooth Mountain Open Space in the foothills west of Fort Collins, one of the most valued open spaces that our department manages. These foothills ecosystems, and specifically the area where Redstone Creek flows, have been classified by the Colorado Natural Heritage Program as "B2: Very High Biodiversity Significance". Efforts to maintain such important biodiversity are critical and an instream flow designation will help us attain this goal.

Towards the southern end of Larimer County, another important riparian corridor that we have worked to protect is the Little Thompson river and its tributaries. The North Fork of the Little Thompson river flows through the Blue Mountain Conservation Easement, an easement that we steward in partnership with Colorado Open Lands. The property was conserved for its high value habitat, buffer to existing conserved lands, and important riparian resources. A designation of the North Fork will be an important step towards ensuring that these values remain in place.

Both of the streams proposed for designation fall within priority conservation areas defined in the Larimer County Open Lands Master Plan which outlines our commitment to protect open space values, specifically along riparian corridors. The instream flow designations currently proposed will help us achieve the goals of this plan and we sincerely hope they move forward. Thank you for your consideration of this important proposal.

Sincerely,



Daylan Figgs, Director
Larimer County Department of Natural Resources





United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado State Office
2850 Youngfield Street
Lakewood, Colorado 80215-7210



In Reply Refer To:
7250 (CO-932)

December 8, 2020

Linda Bassi
Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203

Dear Ms. Bassi:

The Bureau of Land Management (BLM) is writing this letter to formally support an instream flow recommendation on Wildcat Creek submitted by High County Conservation Advocates (HCCA). The BLM supports this recommendation for the following reasons:

- The BLM worked in partnership with HCCA during 2020 to collect R2Cross survey data on Wildcat Creek, and HCCA ran this data through the R2Cross model. The BLM is confident that HCCA selected cross sections that are representative of riffles in Wildcat Creek, and that data collection techniques were complied with protocols established by the Colorado Water Conservation Board.
- The BLM manages approximately one-half mile of the riparian corridor along Wildcat Creek and manages approximately one-half square mile of the Wildcat Creek watershed. The BLM lands in the watershed meet land health standards, and the creek corridor is in very good condition. The BLM has a very strong interest in maintaining these conditions.
- The BLM's resource management plan calls for actions to maintain and enhance riparian conditions. In general, any proposed new land use along Wildcat Creek, such as right-of-way corridors or mineral development, must be implemented in a manner to avoid impacts to riparian habitat. In addition, BLM's resource management plan calls for maintenance and improvement of fisheries habitat. Wildcat Creek is known to support cutthroat trout. The trout habitat is characterized by low stream temperatures because of the north-facing aspect of the watershed, and by high water quality because of the good land health within the watershed. Appropriation of an instream flow water right would assist BLM in maintain these conditions and meeting the objectives set forth in the BLM resource management plan.

INTERIOR REGION 7 • UPPER COLORADO BASIN

COLORADO, NEW MEXICO, UTAH, WYOMING

- Wildcat Creek is part of a watershed used for municipal water supply. The BLM's policy is to maintain and improve the health of municipal watersheds, and an instream flow appropriation would support this policy.
- Portions of Wildcat Creek parallel the 3.75-mile Green Lake Trail. This trail is an important recreational resource for the Crested Butte area, and protection of flows will assist with maintaining the recreational experience.
- There is the potential for future water development within this watershed. The BLM notes that the watershed contains residential development and potential for mineral development. If these land uses require additional water supplies, any provision of water should be subject to maintenance of minimum stream flows.

If the Colorado Water Conservation Board desires additional information concerning resources on BLM lands and BLM management objectives in this watershed, please contact Roy Smith at r20smith@blm.gov.

Sincerely,

ALAN
BITTNER

Digitally signed by
ALAN BITTNER
Date: 2020.12.14
09:51:55 -08'00'

Alan Bittner
Deputy State Director, Resources



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

P (303) 866-3441
F (303) 866-4474

Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Robert Viehl, Water Resource Specialist

DATE: November 18-19, 2019 Board Meeting

AGENDA ITEM: 20. Notice of Recommended 2021 Instream Flow Appropriations in Water Divisions 1, 2, 4, 6, and 7

Background:

Pursuant to Instream Flow (“ISF”) Rule 5c., the Colorado Water Conservation Board is providing notice that the following 15 stream segments are being considered for ISF appropriations in 2021. At the January 2021 CWCB meeting, Staff may request that the Board form its intent to appropriate ISF water rights on some or all of the streams listed in Table 1. All of these streams were previously noticed at the Board’s March 2020 meeting.

Staff Recommendation:

This is an informational item that provides notice of recommended stream segments that staff may bring to the Board in January 2021 with a recommendation that the Board form its intent to appropriate ISF water rights. No Board action is required.

Table 1: Instream Flow Recommendations 2021

Water Div.	Stream Name (Segment Upper/Lower Termini)	Recommending Entity	County	Length (miles)
1	Dry Gulch (headwaters to the confluence with Clear Creek)	CPW	Clear Creek	2.83
1	North Fork Little Thompson River (confluence Beartrap Gulch to the confluence Little Thompson River)	CPW, Larimer County	Larimer	4.51
1	Redstone Creek (headwaters to the confluence with Buckhorn Creek)	CPW, Larimer County	Larimer	16.33
2	East Fork Arkansas River (headwaters to confluence Chalk Creek)	BLM	Lake	6.46
4	Cottonwood Creek (Increase) (Hawkins Ditch headgate to confluence Roubideau Creek)	BLM	Delta, Montrose	23.3



Water Div.	Stream Name (Segment Upper/Lower Termini)	Recommending Entity	County	Length (miles)
4	Cow Creek (confluence with Nate Creek to the confluence with the Uncompahgre River)	CPW	Ouray	8.54
4	Elk Creek (headwaters to the confluence with Coal Creek)	HCCA	Gunnison	2.66
4	Gold Creek (Tarkington Ditch headgate to the confluence with Quartz Creek)	HCCA	Gunnison	0.45
4	Monitor Creek (U.S. Forest Service Property Boundary to confluence with Potter Creek)	BLM	Montrose	9.44
4	Potter Creek (Increase) (U.S. Forest Service Property Boundary to confluence Monitor Creek)	BLM	Montrose	8.1
4	Potter Creek (Increase) (confluence with Monitor Creek to confluence with Roubideau Creek)	BLM	Montrose	1.72
4	Spring Creek (headwaters to Crabtree Ditch headgate)	BLM	Montrose	7.47
4	Wildcat Creek (outlet of Green Lake to the confluence with Coal Creek)	HCCA	Gunnison	2.48
6	Watson Creek (confluence with Moody Creek to the Hardscrabble Ditch headgate)	BLM	Routt`	5.86
7	Rincon La Vaca (headwaters to the confluence with the Los Pinos River)	CPW	Hinsdale	4.47

BLM = Bureau of Land Management; CPW = Colorado Parks and Wildlife; HCCA = High Country Conservation Advocates



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Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

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Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Rob Viehl, Water Resource Specialist
Stream and Lake Protection Section

DATE: March 11-12, 2020

AGENDA ITEM: 12. Notice of Instream Flow Recommendations for 2021

Staff Recommendation: This is an informational item with no Board action required.

Background: Pursuant to Rule 5c. of the Rules Concerning the Colorado Instream Flow (ISF) and Natural Lake Level Program ("ISF Rules"), Staff is providing notice that the following 53 stream segments have been recommended for instream flow (ISF) appropriations in 2021. At the January 2021 CWCB meeting, Staff may request that the Board form its intent to appropriate ISF water rights on these streams.

Please note that the list below includes 21 new recommendations (identified with an *) and 32 recommendations that Staff received in previous years. Staff has not yet moved the previous recommendations forward due to the need for additional scientific data and/or ongoing attempts to address stakeholder issues. In 2021, Staff will recommend that the Board move forward on the recommendations for which sufficient data collection and outreach are completed.

Detailed information regarding these stream segments is also available on the CWCB website located at: <https://cwcb.colorado.gov/2021-isf-recommendations>

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
1	Dry Gulch*	Clear Creek	Clear Creek	2.83	headwaters	confluence Clear Creek
1	Garber Creek*	Upper South Platte	Douglas	4.75	confluence North & South Garber Creeks	confluence West Plum Creek
1	Herman Gulch* (Increase)	Clear Creek	Clear Creek	3.64	headwaters	confluence Clear Creek
1	North Fork Little Thompson River	Big Thompson	Larimer	5.96	confluence unnamed tributary	confluence Little Thompson River
1	Platte Gulch	South Platte Headwaters	Park	1.54	headwaters	confluence MF South Platte River



Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
1	Redstone Creek*	Big Thompson	Larimer	16.3	headwaters	confluence Buckhorn Creek
1	Spring Canyon	Cache La Poudre	Larimer	2.40	headwaters	confluence Horsetooth Reservoir
1	Sulzer Gulch	Big Thompson	Larimer	3.73	headwaters	confluence Big Thompson River
1	Unnamed Tributary to Duck Creek	Upper South Platte	Clear Creek	1.08	outlet of Lower Square Top Lake	inlet of Duck Lake
1	West Plum Creek*	Upper South Platte	Douglas	22.6	headwaters	confluence East Plum Creek
2	Cottonwood Creek*	Arkansas Headwaters	Custer	6.00	headwaters	F. Keuhn Ditch No. 2 headgate
2	Cottonwood Creek*	Arkansas Headwaters	Fremont	9.42	confluence Salt Creek	Giem Ditch headgate
2	East Fork Arkansas River	Arkansas Headwaters	Lake	6.46	headwaters	confluence Chalk Creek
2	East Gulch*	Arkansas Headwaters	Fremont	8.81	confluence Antelope Gulch	confluence Arkansas River
4	Beaver Dams Creek*	Uncompahgre	Ouray	3.29	headwaters	confluence East Fork Dry Creek
4	Big A Creek*	San Miguel	Montrose	1.42	headwaters	confluence Red Canyon Creek
4	Cottonwood Creek (Increase)	Lower Gunnison	Delta, Montrose	23.3	Hawkins Ditch headgate	confluence Roubideau Creek
4	Cow Creek	Uncompahgre	Ouray	11.8	USFS Property boundary	confluence Uncompahgre River
4	Curecanti Creek* (Increase)	Upper Gunnison	Gunnison	21.4	headwaters	confluence Morrow Point Reservoir
4	East Fork Dry Creek*	Uncompahgre	Montrose, Ouray	3.11	headwaters	confluence Beaver Dams Creek
4	East Muddy Creek*	North Fork Gunnison	Gunnison	6.32	confluence Lee Creek	confluence West Muddy Creek
4	Elk Creek*	East-Taylor	Gunnison	2.66	headwaters	confluence Coak Creek
4	Gold Creek	Tomichi	Gunnison	0.45	Tarkington Ditch headgate	confluence Quartz Creek
4	Kelly Creek*	San Miguel	Montrose	1.59	headwaters	confluence Red Canyon Creek

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
4	Little Cimarron River (Increase)	Upper Gunnison	Gunnison	2.49	confluence Van Boxel Creek	Butte Ditch headgate
4	Little Cimarron River	Upper Gunnison	Gunnison, Montrose	6.56	Butte Ditch headgate	confluence Cimarron River
4	Main Hubbard Creek*	North Fork Gunnison	Delta	2.50	headwaters	Overland Ditch
4	Middle Hubbard Creek*	North Fork Gunnison	Delta	2.37	headwaters	Overland Ditch
4	Monitor Creek	Lower Gunnison	Montrose	9.44	USFS Property Boundary	confluence Potter Creek
4	Naturita Creek (Increase)	San Miguel	San Miguel	11.0	headwaters	Norwood Road Crossing
4	Naturita Creek	San Miguel	Montrose, San Miguel	20.2	Norwood Road Crossing	confluence San Miguel River
4	Pine Creek	Upper Gunnison	Gunnison	16.7	headwaters	confluence Morrow Point Reservoir
4	Potter Creek (Increase)	Lower Gunnison	Montrose	9.82	USFS Property Boundary	confluence Roubideau Creek
4	Red Canyon*	San Miguel	Montrose	3.25	headwaters	confluence Big A Creek
4	Spring Creek	San Miguel	Montrose	7.47	headwaters	Crabtree Ditch headgate
4	West Hubbard Creek*	North Fork Gunnison	Delta	2.32	headwaters	Overland Ditch
4	West Muddy Creek*	North Fork Gunnison	Gunnison	5.52	confluence Ault Creek	confluence East Muddy Creek
4	Wildcat Creek*	East-Taylor	Gunnison	2.48	Outlet of Green Lake	confluence Coal Creek
6	Bear Creek	Upper White	Garfield	3.09	headwaters	confluence NF White River
6	Big Fish Creek	Upper White	Garfield	4.30	headwaters	confluence NF White River
6	East Marvine Creek	Upper White	Rio Blanco	7.31	headwaters	confluence Marvine Creek
6	Hauskins Creek	Upper White	Garfield	2.11	headwaters	confluence NF White River
6	Hill Creek	Upper White	Rio Blanco	3.84	headwaters	Hill Creek Ditch #2 & #3 headgate

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
6	Lynx Creek	Upper White	Garfield	1.58	headwaters	confluence NF White River
6	Milk Creek	Lower Yampa	Moffat	4.11	confluence Wilson Creek	confluence Yampa River
6	Mirror Creek	Upper White	Rio Blanco	2.16	headwaters	confluence NF White River
6	Paradise Creek	Upper White	Garfield, Rio Blanco	2.98	headwaters	Paradise Ponds Diversion Headgate
6	Piceance Creek	Piceance-Yellow	Garfield, Rio Blanco	6.93	headwaters	confluence unnamed tributary
6	Piceance Creek	Piceance-Yellow	Rio Blanco	3.83	confluence unnamed tributary	confluence Cow Creek
6	Picket Pin Creek	Upper White	Garfield	2.66	headwaters	confluence NF White River
6	South Fork White River	Upper White	Rio Blanco	8.07	Flat Tops Wilderness Area Boundary	confluence Swede Creek
6	Watson Creek	Upper Yampa	Routt	5.86	confluence Moody Creek	Hardscrabble Ditch headgate
7	Rincon La Vaca Creek	Upper San Juan	Hinsdale	4.47	headwaters	confluence Los Pinos River

*Recommendation received at January 2020 ISF Workshop



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

<https://cwcb.colorado.gov/>

Public Notice

To: All Interested Parties

Subject: Notice of Contested 2021 ISF Appropriations

Date: April 8, 2021

As required by Rule 5k.(4) of the Rules Concerning the Colorado Instream Flow (ISF) and Natural Lake Level (NLL) Program, the Colorado Water Conservation Board hereby provides the subscribers to the ISF Subscription Mailing List with notice of contested ISF appropriations. The contested ISF appropriations are listed below:

Water Division	Stream Segment	County
7	Rincon La Vaca Creek (Headwaters to confluence with the Los Pinos River)	Hinsdale

For more detailed information regarding this ISF appropriation and to view a copy of the Notices to Contest, please go to CWCB's website at:

<https://cwcb.colorado.gov/2021-contested-instream-flow-appropriations>

Rules 5i-5m Concerning the Colorado ISF and NLL Program state the following with regard to Contested ISF Appropriations:

Party status will be granted to any person who timely files a Notice of Party Status with the Staff. Any person filing a Notice to Contest shall be granted Party status and need not also file a Notice of Party Status. A Notice of Party status must be received by April 30th. Electronic submissions of Notices of Party Status should be sent to rob.viehl@state.co.us. A Notice of Party status shall set forth a brief and plain statement of the reasons for obtaining Party status, the contested facts, the matters that the person claims should be decided and a general description of the data to be presented to the Board. The Board will have discretion to grant or deny Party status to any person who files a Notice of Party Status after April 30th, for good cause shown.

Only a Party may submit for the record technical evidence, technical witnesses, or file legal memoranda. Each Party is responsible for providing copies of all documents submitted for Board consideration to all other Parties and Contested Hearing Participants.

Any person who desires to participate in the process, but not as a Party, may obtain Contested Hearing Participant status by filing a notice thereof by April 30th. Electronic submissions of Notices of Contested Hearing Participant status should be sent to rob.viehl@state.co.us. A person with such status will receive all Party documents specific to the contested appropriation. Contested Hearing Participants may comment on their own behalf, but may not submit for the record technical evidence, technical witnesses, or legal memoranda. The Board will have

discretion to grant or deny Contested Hearing Participant status to any person who filed a Notice of Contested Hearing Participant Status after April 30th, for good cause shown.

Staff shall notify all Parties and Contested Hearing Participants of the list of Contested Hearing Participants prior to May 31st. Thereafter, Parties shall also provide their prehearing statements and any other documents to Contested Hearing Participants.

A copy of the Rules Concerning the Colorado ISF and NLL Program is available on the CWCB website at:

<https://dnrweblink.state.co.us/CWCB/0/edoc/214232/2%20CCR%20408-2.pdf>

We encourage you to share the information provided in this notice with any groups or individuals whom you feel would have an interest in the State of Colorado's Instream Flow Program. If you have any additional questions regarding this notice, please contact Rob Viehl.



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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 2021 Instream Flow Appropriations in Water Divisions 1, 4, and 7

Date: January 29, 2021

At its January 25-26, 2021 regular meeting, the Colorado Water Conservation Board (CWCB) declared its intent to appropriate instream flow (ISF) water rights on five stream segments. The attached ISF table provides the water division, stream name, watershed, county, length, upper terminus, lower terminus, and flow rates for all of these stream segments. Copies of the Instream Flow Recommendations and appendices of data submitted into the Official CWCB Record are available online at: <https://cwcb.colorado.gov/2021-isf-recommendations>. Information can also be reviewed by appointment at the Colorado Water Conservation Board's Office, located at 1313 Sherman Street, Room 718, Denver, Colorado, 80203.

In addition to the above Instream Flow Recommendation Summary Reports 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 March 31, 2021. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than April 30, 2021.

(e) Staff will announce its Final staff Instream Flow Recommendation concerning contested appropriations at the September 2021 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 May 2021 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. (2020) 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 instream flow 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 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 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 sign up at: <https://dwr.state.co.us/Portal/Login/>

Instream Flow Recommendations

Water Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate, cfs/ Timing
1	Dry Gulch	Clear Creek	Clear Creek	2.83	headwaters	confluence Clear Creek	0.67 (01/01 - 04/30) 5.4 (05/01 - 07/31) 2 (08/01 - 09/30) 0.85 (10/01 - 12/31)
1	North Fork Little Thompson River	Big Thompson	Larimer	3.77	confluence Hell Canyon Creek	confluence Little Thompson River	5 (04/25 - 06/10) 2 (06/11 - 06/30)
1	Redstone Creek	Big Thompson	Larimer	16.3	headwaters	confluence Buckhorn Creek	6.2 (05/01 - 06/15)
4	Elk Creek	East-Taylor	Gunnison	2.66	headwaters	confluence Coal Creek	0.2 (08/16 - 04/30) 1.5 (05/01 - 07/10) 0.65 (07/11 - 08/15)
7	Rincon La Vaca Creek	Upper San Juan	Hinsdale	4.47	headwaters	confluence Los Pinos River	1.2 (11/01 - 04/30) 2.8 (05/01 - 10/31)



COLORADO

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www.cwcb.state.co.us

Pursuant to ISF Rule 5c. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, this notice identifies the streams to be considered for instream flow (ISF) appropriations in 2021. At the January meeting of the Colorado Water Conservation Board (CWCB), staff may request that the Board form its intent to appropriate ISF water rights for the streams listed on the Instream Flow Recommendation List below.

Information submitted to the CWCB is 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. This information is also available online at:

<https://cwcb.colorado.gov/2021-isf-recommendations>

In addition to the ISF Recommendations 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 the ISF Recommendations.

It should also be noted that, pursuant to the [ISF Rules](#):

5d. (3)

(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 31, 2021, 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 30, 2021 or the first business day thereafter.

(e) Staff will announce its Final Staff ISF Recommendation concerning contested appropriations at the September 2021 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 2021 Board meeting.

The schedule set forth in (d), (e), and (f) above will apply to streams on which the CWCB declares its intent to appropriate water rights in January 2021.

Note that section 37-92-102 (3) (b), C.R.S. (2020) 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 instream flow segments, and potential recognition of such uses in the CWCB’s water court decree, contact Rob Viehl at the address set forth above or via email to rob.viehl@state.co.us.

Should you wish to comment on the proposed ISF Recommendations, you may do so by writing Rob Viehl of the Board's staff at the address or email given above. Your appearance at any meeting is welcome, but not necessary. If you request, staff will submit your written comments to the Board. If you are not currently on the Board's Instream Flow Subscription Mailing List and you would like to be, please contact the Board's Office at the address given above.

Instream Flow Recommendations 2021

Water Div.	Stream Name (Segment Upper/Lower Termini)	Recommending Entity	County	Length (miles)
1	Dry Gulch (headwaters to the confluence with Clear Creek)	CPW	Clear Creek	2.83
1	North Fork Little Thompson River (confluence Beartrap Gulch to the confluence Little Thompson River)	CPW, Larimer County	Larimer	4.51
1	Redstone Creek (headwaters to the confluence with Buckhorn Creek)	CPW, Larimer County	Larimer	16.33
2	East Fork Arkansas River (headwaters to confluence Chalk Creek)	BLM	Lake	6.46
4	Cottonwood Creek (Increase) (Hawkins Ditch headgate to confluence Roubideau Creek)	BLM	Delta, Montrose	23.3
4	Cow Creek (confluence with Nate Creek to the confluence with the Uncompahgre River)	CPW	Ouray	8.54
4	Elk Creek (headwaters to the confluence with Coal Creek)	HCCA	Gunnison	2.66
4	Gold Creek (Tarkington Ditch headgate to the confluence with Quartz Creek)	HCCA	Gunnison	0.45
4	Monitor Creek (U.S. Forest Service Property Boundary to confluence with Potter Creek)	BLM	Montrose	9.44

Water Div.	Stream Name (Segment Upper/Lower Termini)	Recommending Entity	County	Length (miles)
4	Potter Creek (Increase) (U.S. Forest Service Property Boundary to confluence Monitor Creek)	BLM	Montrose	8.1
4	Potter Creek (Increase) (confluence with Monitor Creek to confluence with Roubideau Creek)	BLM	Montrose	1.72
4	Spring Creek (headwaters to Crabtree Ditch headgate)	BLM	Montrose	7.47
4	Wildcat Creek (outlet of Green Lake to the confluence with Coal Creek)	HCCA	Gunnison	2.48
6	Watson Creek (confluence with Moody Creek to the Hardscrabble Ditch headgate)	BLM	Routt`	5.86
7	Rincon La Vaca (headwaters to the confluence with the Los Pinos River)	CPW	Hinsdale	4.47

BLM = Bureau of Land Management; CPW = Colorado Parks and Wildlife; HCCA = High Country Conservation Advocates



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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<https://cwcb.colorado.gov/>

Pursuant to ISF Rule 5c. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, this notice identifies the streams to be considered for instream flow (ISF) appropriations in 2021. At the January 2021 meeting of the Colorado Water Conservation Board (CWCB), staff may request that the Board form its intent to appropriate ISF water rights for the streams listed on the attached ISF recommendation List. The attached list contains a description of the ISF recommendations including water division, stream name, watershed, county, length, upper terminus, and lower terminus.

Copies of the available ISF recommendations and data submitted into the Official CWCB Record can be reviewed by the public during regular business hours (8:00 a.m. - 5:00 p.m.) at the CWCB's office, located at 1313 Sherman Street, Room 718, Denver, Colorado, 80203. The ISF Recommendations are also available online at: <https://cwcb.colorado.gov/2021-isf-recommendations>

In addition to the ISF recommendations, 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.

It should also be noted that, pursuant to the [ISF Rules](#):

5d. (3)

(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 31, 2021, 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 30, 2021 or the first business day thereafter.

(e) Staff will announce its Final Staff ISF Recommendation concerning contested appropriations at the September 2021 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 2021 Board meeting.

Note that section 37-92-102 (3) (b), C.R.S. (2019) 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 instream flow segments, and potential recognition of such uses in the CWCB’s water court decree, contact Rob Viehl at the address set forth above or via email to rob.viehl@state.co.us.

The schedule set forth in (d), (e), and (f) above will apply to streams on which the CWCB declares its intent to appropriate water rights in January 2021. Should you wish to comment on the proposed ISF Recommendations or request more information on the applicability of section 37-92-102(3)(b) to present uses of water in or above the proposed ISF segments, you may do so by writing Rob Viehl, of the Board's staff at the address given above or by sending your comments by 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 ISF Subscription Mailing List and you would like to be, please contact Rob Viehl, or sign up online at: <https://dwr.state.co.us/Portal/Login/>

ISF Recommendations 2021

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
1	Dry Gulch*	Clear Creek	Clear Creek	2.83	headwaters	confluence Clear Creek
1	Garber Creek*	Upper South Platte	Douglas	4.75	confluence North & South Garber Creeks	confluence West Plum Creek
1	Herman Gulch* (Increase)	Clear Creek	Clear Creek	3.64	headwaters	confluence Clear Creek
1	North Fork Little Thompson River	Big Thompson	Larimer	5.96	confluence unnamed tributary	confluence Little Thompson River
1	Platte Gulch	South Platte Headwaters	Park	1.54	headwaters	confluence MF South Platte River
1	Redstone Creek*	Big Thompson	Larimer	16.3	headwaters	confluence Buckhorn Creek
1	Spring Canyon	Cache La Poudre	Larimer	2.40	headwaters	confluence Horsetooth Reservoir
1	Sulzer Gulch	Big Thompson	Larimer	3.73	headwaters	confluence Big Thompson River
1	Unnamed Tributary to Duck Creek	Upper South Platte	Clear Creek	1.08	outlet of Lower Square Top Lake	inlet of Duck Lake

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
1	West Plum Creek*	Upper South Platte	Douglas	22.6	headwaters	confluence East Plum Creek
2	Cottonwood Creek*	Arkansas Headwaters	Custer	6.00	headwaters	F. Keuhn Ditch No. 2 headgate
2	Cottonwood Creek*	Arkansas Headwaters	Fremont	9.42	confluence Salt Creek	Giem Ditch headgate
2	East Fork Arkansas River	Arkansas Headwaters	Lake	6.46	headwaters	confluence Chalk Creek
2	East Gulch*	Arkansas Headwaters	Fremont	8.81	confluence Antelope Gulch	confluence Arkansas River
4	Beaver Dams Creek*	Uncompahgre	Ouray	3.29	headwaters	confluence East Fork Dry Creek
4	Big A Creek*	San Miguel	Montrose	1.42	headwaters	confluence Red Canyon Creek
4	Cottonwood Creek (Increase)	Lower Gunnison	Delta, Montrose	23.3	Hawkins Ditch headgate	confluence Roubideau Creek
4	Cow Creek	Uncompahgre	Ouray	11.8	USFS Property boundary	confluence Uncompahgre River
4	Curecanti Creek* (Increase)	Upper Gunnison	Gunnison	21.4	headwaters	confluence Morrow Point Reservoir
4	East Fork Dry Creek*	Uncompahgre	Montrose, Ouray	3.11	headwaters	confluence Beaver Dams Creek
4	East Muddy Creek*	North Fork Gunnison	Gunnison	6.32	confluence Lee Creek	confluence West Muddy Creek
4	Elk Creek*	East-Taylor	Gunnison	2.66	headwaters	confluence Coak Creek
4	Gold Creek	Tomichi	Gunnison	0.45	Tarkington Ditch headgate	confluence Quartz Creek
4	Kelly Creek*	San Miguel	Montrose	1.59	headwaters	confluence Red Canyon Creek
4	Little Cimarron River (Increase)	Upper Gunnison	Gunnison	2.49	confluence Van Boxel Creek	Butte Ditch headgate
4	Little Cimarron River	Upper Gunnison	Gunnison, Montrose	6.56	Butte Ditch headgate	confluence Cimarron River
4	Main Hubbard Creek*	North Fork Gunnison	Delta	2.50	headwaters	Overland Ditch
4	Middle Hubbard Creek*	North Fork Gunnison	Delta	2.37	headwaters	Overland Ditch

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
4	Monitor Creek	Lower Gunnison	Montrose	9.44	USFS Property Boundary	confluence Potter Creek
4	Naturita Creek (Increase)	San Miguel	San Miguel	11.0	headwaters	Norwood Road Crossing
4	Naturita Creek	San Miguel	Montrose, San Miguel	20.2	Norwood Road Crossing	confluence San Miguel River
4	Pine Creek	Upper Gunnison	Gunnison	16.7	headwaters	confluence Morrow Point Reservoir
4	Potter Creek (Increase)	Lower Gunnison	Montrose	9.82	USFS Property Boundary	confluence Roubideau Creek
4	Red Canyon*	San Miguel	Montrose	3.25	headwaters	confluence Big A Creek
4	Spring Creek	San Miguel	Montrose	7.47	headwaters	Crabtree Ditch headgate
4	West Hubbard Creek*	North Fork Gunnison	Delta	2.32	headwaters	Overland Ditch
4	West Muddy Creek*	North Fork Gunnison	Gunnison	5.52	confluence Ault Creek	confluence East Muddy Creek
4	Wildcat Creek*	East-Taylor	Gunnison	2.48	Outlet of Green Lake	confluence Coal Creek
6	Bear Creek	Upper White	Garfield	3.09	headwaters	confluence NF White River
6	Big Fish Creek	Upper White	Garfield	4.30	headwaters	confluence NF White River
6	East Marvine Creek	Upper White	Rio Blanco	7.31	headwaters	confluence Marvine Creek
6	Hauskins Creek	Upper White	Garfield	2.11	headwaters	confluence NF White River
6	Hill Creek	Upper White	Rio Blanco	3.84	headwaters	Hill Creek Ditch #2 & #3 headgate
6	Lynx Creek	Upper White	Garfield	1.58	headwaters	confluence NF White River
6	Milk Creek	Lower Yampa	Moffat	4.11	confluence Wilson Creek	confluence Yampa River
6	Mirror Creek	Upper White	Rio Blanco	2.16	headwaters	confluence NF White River
6	Paradise Creek	Upper White	Garfield, Rio Blanco	2.98	headwaters	Paradise Ponds Diversion Headgate

Div.	Stream Name	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
6	Piceance Creek	Piceance-Yellow	Garfield, Rio Blanco	6.93	headwaters	confluence unnamed tributary
6	Piceance Creek	Piceance-Yellow	Rio Blanco	3.83	confluence unnamed tributary	confluence Cow Creek
6	Picket Pin Creek	Upper White	Garfield	2.66	headwaters	confluence NF White River
6	South Fork White River	Upper White	Rio Blanco	8.07	Flat Tops Wilderness Area Boundary	confluence Swede Creek
6	Watson Creek	Upper Yampa	Routt	5.86	confluence Moody Creek	Hardscrabble Ditch headgate
7	Rincon La Vaca Creek	Upper San Juan	Hinsdale	4.47	headwaters	confluence Los Pinos River

*Recommendation received at January 2020 ISF Workshop