



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Chief
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DATE: January 27, 2020

AGENDA ITEM: 10. 2020 Instream Flow Appropriations in Water Divisions 2, 4, and 6

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 2, 4, and 6. This work was performed 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). An executive summary that includes appendices of the supporting scientific data for each recommended stream segment has been provided to the Board separately, which includes the technical basis for each appropriation.

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 2 (Lake County), 4 (Gunnison, Mesa, and Montrose Counties), and 6 (Rio Blanco 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:

<http://cwcb.state.co.us/environment/instream-flow-program/Pages/2020ProposedISFRecommendations.aspx>



Natural Environment Studies

The Bureau of Land Management, Colorado Parks and Wildlife, and High Country Conservation Advocates conducted field surveys of 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 biologic and 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 2019 and met with the County Commissioners for each county where the stream segments are located. In addition, staff contacted water commissioners, local landowners, 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 2



Water Court Div	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (Miles)	Amount(Dates) (CFS)	Approp Date
2		Iowa Gulch	Arkansas Headwaters	Lake	headwaters in vicinity of E: 398270.52 N: 4343774.07	Iowa Gulch intake at E: 394280.86 N: 4342373.29	3.61	1.7 (05/01 - 09/15) 1 (09/16 - 04/30)	

Totals for Water Division 2

Total # Appropriations = 1
Total # Appropriation Stream Miles = 3.6

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	(increase)	Cement Creek	East-Taylor	Gunnison	headwaters in the vicinity of E: 346437.58 N: 4314893.95	confl East River at E: 336739.49 N: 4296619.14	17.35	3 (04/15 - 07/10)	
4		Kelso Creek	Lower Gunnison	Mesa	headwaters in the vicinity of E: 185287.30 N: 4271192.67	confl Bear Gulch at E: 197851.54 N: 4276621.43	9.89	0.85 (09/01 - 03/31) 2.4 (04/01 - 08/31)	
4		Spring Creek	San Miguel	Montrose	headwaters in the vicinity of E: 187539.34 N: 4266062.60	Crabtree Ditch hdgt at E: 180820.03 N: 4258155.01	7.47	1.1 (03/15 - 05/31)	
4	(increase)	Spring Creek	East-Taylor	Gunnison	confl Rocky Brook Creek at E: 351947.60 N: 4301609.78	confl Bear Creek at E: 349182.58 N: 4298075.72	3.18	6.5 (04/01 - 09/30)	
4	(increase)	Spring Creek	East-Taylor	Gunnison	confl Bear Creek at E: 349182.58 N: 4298075.72	confl Taylor River at E: 345706.96 N: 4287535.69	8.17	13.5 (04/01 - 07/31)	

Totals for Water Division 4

Total # Appropriations = 5
Total # Appropriation Stream Miles = 46.1

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		Unnamed Tributary to Bunker Creek	Upper Yampa	Rio Blanco	headwaters in the vicinity of E: 317262.91 N: 4450351.49	Bunker Ditch hdgt at E: 314434.46 N: 4450579.57	2.14	0.4 (12/01 - 04/30) 1.75 (05/01 - 07/31) 0.8 (08/01 - 11/30)	
Totals for Water Division 6					Total # Appropriations = 1 Total # Appropriation Stream Miles = 2.1				
Totals Divisions: 1 - 7					Total # Appropriations = 7 Total # Appropriation Stream Miles = 51.8				