



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: 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

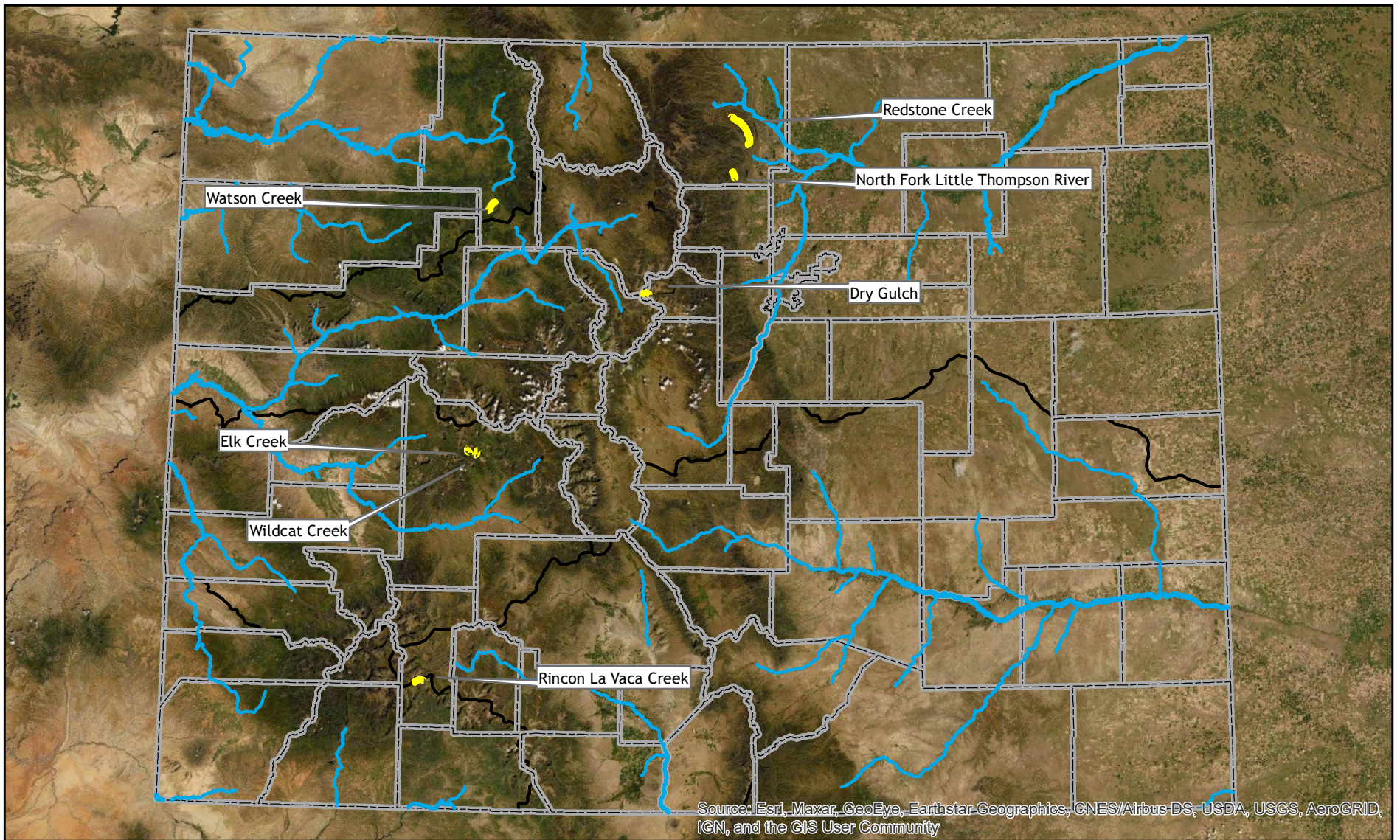
Water Court Div.	Case Number	Stream	Watershed	County	Upper Terminus (UTM)	Lower Terminus (UTM)	Length (miles)	Amount(/Dates) (CFS)	Approp Date
6		Watson Creek	Upper Yampa	Routt	confl Moody Creek at E: 331641.39 N: 4442915.57	Hardscrabble Ditch hdgt E: 335946.66 N: 4447907.65	5.86	1.1 (01/01 - 03/31)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



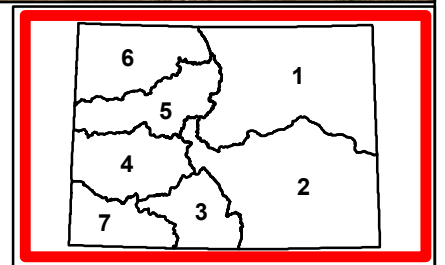
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**Colorado Water
Conservation Board**

Department of Natural Resources

January 25, 2021
ISF Recommendations

0 30 60 120
Miles



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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.

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- 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,

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Alan Bittner
Deputy State Director, Resources