



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Robert Viehl, Chief
Stream and Lake Protection Section

DATE: July 21, 2022

AGENDA ITEM: 15b. 2022 ISF Appropriations: Cancellation of Intent to Appropriate Instream Flow Water Rights on Spring Creek (Water Division 4)

Staff Recommendation: Staff recommends that the Board cancel its intent to appropriate an instream flow (ISF) water right on the following reach of Spring Creek in Water Division 4:

Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate cfs/ Timing
4	Spring Creek	San Miguel	Montrose	7.47	headwaters	Crabtree Ditch headgate	1.1 (03/15 - 05/31)

Background: At the January 2017 instream flow (ISF) workshop the Bureau of Land Management (BLM) submitted an ISF recommendation to the CWCB on Spring Creek from its headwaters down to the confluence with Tabeguache Creek. After reviewing and analyzing the available data, CWCB staff was prepared to start the appropriation process on Spring Creek in January 2020 on a shortened reach from Spring Creek’s headwaters to the Crabtree Ditch headgate. CWCB staff removed the recommendation for consideration in 2020 with the intent to conduct additional outreach because concerns were raised about undecreed uses occurring on Spring Creek that needed to be recognized.

Staff from the BLM, CWCB, and the Division of Water Resources met onsite with stakeholders to discuss the Spring Creek recommendation in May of 2021. The purpose of the meeting was to assist these individuals in documenting their current undecreed uses for recognition under statute 37-92-102 3 (b). On January 24, 2022, the CWCB formed its intent to appropriate ISF water rights on Spring Creek.

Staff provided the Board with an update on this appropriation at its May 2022 meeting indicating that local stakeholders submitted a letter dated April 25, 2022, which sought to protest the ISF appropriation on Spring Creek. Unfortunately, there was not sufficient time between receiving this letter and the May CWCB meeting for CWCB staff to discuss potential options with the BLM. While staff remains confident that the data collected and analyzed is sufficient to proceed with an appropriation, after discussions with the recommending entity, staff is requesting the Board cancel its intent to appropriate the ISF on Spring Creek. Staff may bring this recommendation back to the CWCB for inclusion in the ISF program in the future, but the entire administrative process would need to be restarted from the beginning.

