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IN THE MATTER OF THE PETITION FOR CHANGE OF USE FROM FISH)
 PROPAGATION TO INSTREAM FLOW AND CHANGE OF PLACE OF USE OF THE)
 WYOMING GAME AND FISH DEPARTMENT APPROPRIATION, PERMIT NO.)
 29608, DIVERTING FROM CARLIN SPRINGS, TRIBUTARY ROCK CREEK,)
 TRIBUTARY MEDICINE BOW RIVER, TRIBUTARY NORTH PLATTE RIVER,)
 THROUGH THE COMO BLUFFS FISH HATCHERY COMPLEX CARLIN SPRINGS)
 PIPELINE NO. 1, WITH PRIORITY OF FEBRUARY 22, 1984.)
)
)
 (O.R. 35, P. 7; C.R. 76, P. 304; PROOF NO. 34822))

DOCKET NUMBER I-2006-1-3
IN WATER DIVISION NUMBER ONE

PETITIONER: WYOMING GAME AND FISH COMMISSION, ACTING THROUGH ITS AGENT, BOBBY T. EDWARDS, CHIEF ENGINEER,
OF 5400 BISHOP BOULEVARD, CHEYENNE, COUNTY OF LARAMIE, STATE OF WYOMING.

This matter was considered by the State Board of Control at its regular meeting on May 12, 2006, with the following results:

FINDINGS OF FACT

1. THAT the petitioner is the owner (on behalf of the State of Wyoming) of the lands involved and the appropriation of water attached thereto, as evidenced by the copy of Certificate of Ownership from the County Clerk of Albany County, Wyoming.

2. THAT the appropriation is the Wyoming Game and Fish Department Appropriation, Permit No. 29608, adjudicated under Proof No. 34822, in the amount of 1.31 c.f.s. for fish propagation purposes, diverting from Carlin Springs, tributary Rock Creek, tributary Medicine Bow River, tributary North Platte River, through the Como Bluffs Fish Hatchery Complex Carlin Springs Pipeline No. 1, with priority of February 22, 1984, and of record in Order Record 35, page 7; Certificate Record 76, page 304 describing the points of use as follows (and as shown on the permit map):

This appropriation is limited to fish propagation and shall be limited to the amount of water beneficially used, not to exceed 1.31 c.f.s. (pipeline capacity) or a combined rate of 2.31 c.f.s. when used in conjunction with Permit Nos. 2963 and 2964, Carlin No. 2 Ditch and the Carlin No. 1 Ditch.

Township 23 North, Range 77 West
Section 35: E $\frac{1}{2}$ NE $\frac{1}{4}$

3. THAT by and through its petition, the petitioner requested a change of use from fish propagation to instream flow of the Wyoming Game and Fish Department Appropriation, Permit No. 29608, Proof No. 34822, and requested that the total amount of water to be changed to instream flow is 1.31 c.f.s.

4. THAT by and through its petition, the petitioner requested a change of place of use of the Wyoming Game and Fish Department Appropriation, Permit No. 29608, Proof No. 34822, as changed to instream flow, to a stream segment of Rock Creek, tributary Medicine Bow River, tributary North Platte River, described as follows:

Beginning at a point on Rock Creek which crosses the East Line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 23 North, Range 77 West, and ending at a point on the West Line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 23 North, Range 77 West. The length of the stream segment is 1412 feet and courses through the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 34, Township 23 North, Range 77 West (being about $\frac{1}{4}$ mile in stream segment length).

5. THAT the Wyoming Game and Fish Department Appropriation, Permit No. 29608, Proof No. 34822, for 1.31 c.f.s., as changed to instream flow, will continue to be diverted from Carlin Springs, tributary Rock Creek, tributary Medicine Bow River, tributary North Platte River, at its record point of diversion described as North 48° 46' 13" East, 2855.46 feet distant from the south quarter corner of Section 35, Township 23 North, Range 77 West, and situated in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35. Water for this appropriation as changed to instream flow will be delivered through the Como Bluffs Fish Hatchery Complex Carlin Springs Pipeline No. 1 to the instream flow segment delivery point located at a point on Rock Creek, tributary Medicine Bow River, tributary North Platte River, described as North 59° 5' East, 1240 feet distant from the west quarter corner of Section 35, Township 23 North, Range 77 West, and situated in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35.

6. THAT the reason for requested changes is to preclude the possibility of Whirling Disease entering the Fish Hatchery after it is sold to a private entity. By changing the use of the appropriation involved, the petitioner hopes to prevent the possibility of Whirling Disease being introduced to the Hatchery and thus minimize or avoid the potential for infected trout from this source to be stocked in the waters of the State.

7. THAT the consent of the Carlin Ranch Corporation was obtained.

8. THAT there are no intervening points of diversion between the instream flow delivery point, and the end the instream flow segment.

9. THAT there are no intervening tributaries or other sources of supply between the instream flow delivery point, and the end the instream flow segment.

10. THAT a field inspection was completed by the Superintendent of Water Division Number One on April 13, 2006, in the company of Paul Jeschke (Carlin Ranch Manager) and Mike Winn (adjacent water right owner immediately downstream of Hatchery Complex), and it was determined that there was not a reasonable likelihood for potential future injury to other water rights administered by the State Engineer and the State Board of Control. The Superintendent of Water Division Number One recommended that a public hearing was not necessary.

11. THAT evidence of historic water flows used from the Carlin Springs Pipeline at the Como Bluffs Fish Hatchery (sic), Attachment B, and evidence that water from the Carlin Spring was historically used for fish production at the Como Bluffs Fish Hatchery, Attachment C, accompanied the petition.

12. THAT a properly prepared map accompanied the petition.

13. THAT the granting of this petition will not injure any other appropriators.

CONCLUSIONS OF LAW

The State Board of Control has jurisdiction both to consider the petitioner's request for change of use and change of place of use and to prepare and promulgate the Order hereinafter set forth disposing of said petition.

The Findings of Fact contain the elements necessary to comply with Sections 41-3-104 and 41-3-1007, W.S. 1977, pertaining to change of use and change of place of use and the petition should be granted.

ORDER

IT IS HEREBY ORDERED THAT this petition be and the same is **GRANTED** without loss of priority and subject to the condition that the changes shall not affect the rights of other appropriators in good standing at the time the changes are made.

IT IS FURTHER ORDERED THAT the petitioner be allowed a change of use and change of place of use, and that an amended certificate of appropriation be issued to the petitioner as follows:

CARLIN SPRINGS, TRIBUTARY ROCK CREEK, TRIBUTARY MEDICINE BOW RIVER, TRIBUTARY NORTH PLATTE RIVER

Certificate Record Book	Page	Proof No.	Permit No.	Name of Facility	Name of Appropriator	Address	Date of Appro.	Use For Which Appro.	Amt. of Appro. C.F.S.	No. of Acres
85	75	34822	29608	Como Bluffs Fish Hatchery Complex Carlin Springs Pipeline No. 1 H.G: NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35-23-77	Wyoming Game and Fish Commission (successor to Wyoming Game and Fish Department, original appropriator)	5400 Bishop Boulevard, Cheyenne, Wyoming 82002	February 22, 1984	Instream Flow	1.31	None


This appropriation is limited to instream flow purposes and shall be limited to 1.31 c.f.s., and will be used within the stream segment beginning at a point on Rock Creek which crosses the East Line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 23 North, Range 77 West, and ending at a point on the West Line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 23 North, Range 77 West. The length of the stream segment is 1412 feet and courses through the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 34, Township 23 North, Range 77 West (being about $\frac{1}{4}$ mile in stream segment length).

DONE AT CHEYENNE, COUNTY OF LARAMIE, STATE OF WYOMING THIS 12TH DAY OF MAY 2006.

STATE BOARD OF CONTROL


PATRICK T. TYRRELL, PRESIDENT

ATTEST:


ALLAN CUNNINGHAM, EX-OFFICIO SECRETARY

ENTERED: July 13, 2006