

HEADGATE RESTORATION

JUNE 8, 2019

HUERFANO COUNTY, COLORADO

After the floods . . .

Which irrigation headgates are in danger?

How will irrigation continue?

Presented by: HCWCD



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(CWCB)

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Division 2 Engineer
District 16 & 79 Commissioners

Over one hundred irrigation headgates and diversion structures are in jeopardy in Huerfano County. They are located below the Spring Creek Fire burn scar where severely burned, water resistant soils combined with severe rainfall events during the approaching monsoon season are expected to cause significant downstream flooding.

Thanks to a grant from the Colorado Water Conservation Board and armed with information provided by the Division of Water Resources, HCWCD contracted with Dr. Gerald Blackler, P.E., of Enginuity. Working with a model he developed to predict flooding below the burn scar, Dr. Blackler evaluated the consequences to each point of diversion.

STOP!

**If you didn't get the handouts during registration,
please return and pick up your copies of:**

- **Dr. Blackler's evaluation of your diversion**
- **Schematics of temporary diversion structures**
- **Army Corps of Engineers (USACE) exemption summaries**

Program Speakers

Scott King <i>HCWCD President</i>	Welcome and introductions
Gerald Blacker, P.E., Ph.D. <i>Enginuity Engineering Solutions, LLC</i>	Model operations/results
Rachel Zancanella (on behalf of Bill Tyner) <i>Division 2 Engineer's office</i>	Options for headgate restoration
Doug Brgoch <i>South Regional Team Leader and District 16 Water Commissioner</i>	Role of the Water Commissioners

Temporary Headgates – The Next 5 Years

Today's update meeting focuses on temporary headgates and diversions for the reason that flooding from the burn scar is expected to occur during the next 4-5 and perhaps even 10 years. Under those circumstances, it is unlikely that immediate *permanent* replacements will be advisable since their destruction may be a repeated or even annual event. So this program is exclusively concerned with what ditch owners may do to *quickly* get back in operation after a flood. Construction of permanent replacements may be far in the future.

Compliance with State Law Water Right Administration

NOTE: The following is unofficial, developed from the Division 2 Engineer's website: <http://water.state.co.us/DivisionsOffices/Div2ArkansasRiverBasin/Pages/FloodFireResponse.aspx> ("Diversion Structure Replacement Memo of 2019"). Please refer to this site and consult with your Water Commissioner before taking action.

Following flooding, river headgates may be compromised or even destroyed as a result of stream changes. In addition, the stream channel itself may have new obstacles, changes in grade, or even a new bank location. As a result, headgates may need to be relocated. Generally, a headgate must be located at its decreed point of diversion to avoid issues in future water right change proceedings. However, there are specific statutory provisions and administrative practices that allow the movement of headgates. Water users should be aware of the following administrative considerations as they begin headgate repair or replacement construction following stream changes.

1. Moving the headgate to a new location when rebuilding. Ideally a destroyed or damaged headgate should be reconstructed at its decreed location. That may be impossible. If a headgate must be moved because of changes to the channel, it may be relocated in order to continue to exercise its water right. The water right will remain unaffected, as long as it does not impact another water right. See CRS § 37-86-111.

2. Changing the location of the headgate in water court. Depending on the specific circumstances, a change in headgate location may be accomplished in water court as a "simple change in point of diversion." CRS § 37-92-305(3.5). This approach applies to a headgate that is moved as allowed in the preceding item 1, as well as when an undamaged headgate is moved to a new location where it does not divert a greater amount of water than could have been taken at the decreed location and the change will not injuriously affect other water rights. Unless the headgate has been moved as allowed in the preceding item 1, the application to the water court should be filed before or concurrent with the construction of the new headgate. Use Water Court Form No. JDF 241W. This form may be found at <http://www.courts.state.co.us>. Select "Forms" and then "Water."

3. Mandatory Coordination with the Division Engineer and the Water Commissioner. Prior to or immediately after installing a new river headgate and measuring device, the structure owner should contact the Division Engineer or Water Commissioner to ensure that the new installation allows proper administration of the water right. While the Division Engineer and his staff will be as flexible and cooperative as possible during an emergency such as the anticipated Huerfano County floods, he still must ensure proper structure design and construction, approve and rate the measuring devices, and supervise measurement and regulation of water diverted or stored. C.R.S. § 37-84-112, 113, 116, 117 and 122.

Consequently, before construction of temporary or permanent replacement facilities following a flood and before diverting water through an unrated flume or weir, be sure to contact the Division Engineer, 719-542-3368, or more appropriately the water commissioner for your district.

For Huerfano County, the water commissioners are:

- Cucharas River, District 16: Doug Brgoch Doug.Brgoch@state.co.us 719-859-0122
- Huerfano River, District 79: Lenna Rauber Lenna.Rauber@state.co.us 719-568-0489

For the description, design and application of structures for stream stabilization and river restoration, visit the DWR website at:
<http://water.state.co.us/DivisionsOffices/Div2ArkansasRiverBasin/Pages/FloodFireResponse.aspx> .

Under Flood Recovery Resources & Response, select **Example Cross-Vane Weir**.

Should you have questions that cannot be answered satisfactorily by your water commissioner, you should contact your own water lawyer.

Federal § 404 Permits US Army Corps of Engineers - Exempt Activities

In general, normal farming and ranching practices such as the repair, maintenance and construction of irrigation ditches are exempt from the need to obtain a § 404 permit. These exemptions are described in the three USACE “Exemption Summaries” for:

- Maintenance (including emergency reconstruction)
- Irrigation ditch construction or maintenance
- Normal farming

Copies of these exemption summaries are available at the registration desk. Although unlikely to arise in Huerfano County, there are some limitations to the exemptions. You should review the summaries before taking advantage of the exemptions. The summaries are also available online at:

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Section-404-Exemptions/>

If you have questions concerning § 404 permits, contact the USACE Southern Colorado Regulatory Branch, 720 N. Main St #205, Pueblo, Colorado 81003, or:

Peter Olmstead (covers Huerfano County)
719-619-7049

Van Truan, Branch Chief
719-250-5700



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