American Whitewater • Audubon Colorado • Center for Native Ecosystems
Colorado Environmental Coalition • Colorado Wild
Dvorak Expeditions • High Country Citizens Alliance
Rocky Mountain Recreation Initiative • San Juan Citizens Alliance
Save the Poudre • Sheep Mountain Alliance • Sierra Club • The Wilderness Society
Western Colorado Congress • Western Resource Advocates
Western Rivers Initiative • Wild Connections

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

January 12, 2011

Honorable Board Members,

The undersigned business, recreational, and conservation groups, all with an interest in maintaining, restoring, and preserving the San Miguel River, the Dolores River, and their tributaries, strongly support instream flow protections for the San Miguel River River from Calamity Draw to the confluence with the Dolores River, as recommended by the Bureau of Land Management and in the form recommended by Colorado Water Conservation Board (CWCB) staff. We encourage the CWCB to apply for the right in 2011 to ensure a 2011 priority date.

The proposed instream flow reach has been identified as having an outstanding population of the three fish species of concern (roundtail chub, flannelmouth sucker, and bluehead sucker). As noted by CWCB staff, establishing instream flows is a priority under the multi-state agreement to prevent Endangered Species Act listing of these species. This instream flow recommendation—in both its volume and hydrograph—will protect essential habitat for these species.

The proposed instream flow protection will also help ensure the continued vitality of globally iimperiled riparian communities and other important riparian communities along the lower San Miguel River. These include New Mexico privet riparian shrubland, skunkbrush riparian shrubland, narrowleaf cottonwood, and Fremont cottonwood communities. The presence of these communities and species has prompted the Colorado Natural Heritage Program to identify two potential conservation areas along the lower San Miguel.

Flow determinations are created with a balance between the environment and human activities. CWCB is authorized to file for instream flow to preserve the natural environment to a reasonable degree. The proposed flow volumes and hydrograph are critical as the minimum needed for the future health of the San Miguel River itself, but also supports important scenic, historic, agricultural, riparian, and wildlife values and human activities in and along that iconic river, as well as the same values on the Dolores River below its confluence with the San Miguel.

We recognize that it is an important role of counties and municipalities to secure resources that allow for future services and potential development within their jurisdiction. The CWCB's decision to delay a decision for this instream flow for one year provided opportunity for interested parties to file for rights adequate to meet foreseeable demands, and extensive conditional beneficial use rights have now been filed, preserving the seniority of those rights over the proposed instream flow protection rights.

The undersigned therefore believe that the maintenance of healthy natural resources, such as through this instream flow recommendation, will continue to attract new opportunities, beneficial both to the natural environment and to human communities and enterprise.

The undersigned encourage the CWCB to promptly and diligently approve this instream flow recommendation and apply for this right in 2011.

Sincerely,

Nathan Fey, Director
American Whitewater

Ken Strom, Director
Audubon Colorado

Josh Pollock, Conservation Director
Center for Native Ecosystems

Becky Long, Water Caucus Coordinator
Colorado Environmental Coalition

Ryan Demmy Bidwell, Executive Director
Colorado Wild

Steve Glazer, Water Program Director
High Country Citizens Alliance

Meghan Maloney, River Program Director
San Juan Citizens Alliance

Hilary White, Executive Director
Sheep Mountain Alliance

Steve Smith, Assistant Regional Director
The Wilderness Society

Bart Miller, Water Program Director
Western Resource Advocates

Jean Smith, Executive Director
Wild Connections

Bill Dvorak, Owner
Dvorak Expeditions

Roz McClellan, Coordinator
Rocky Mountain Recreation Initiative

Gary Wockner, Director
Save the Poudre

Kirk Cunningham, Conservation Chair
Sierra Club, Rocky Mountain Chapter

Lee Gelatt, Organizer
Western Colorado Congress

Ken Neubecker
Western Rivers Initiative

The Nature Conservancy
Protecting nature. Preserving life.™

The Nature Conservancy in Colorado
2424 Spruce Street
Boulder, CO 80302

tel [303] 444-2950
fax [303] 444-2986

nature.org/colorado

January 12, 2011

Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203
Attn: Linda Bassi
FAX 303-866-4474

Dear Colorado Water Conservation Board Members,

The Nature Conservancy would like to voice its support for an instream flow right for the San Miguel River between Calamity Creek and the confluence with the Dolores River. As a landowner of nearly half of the river miles being considered for an instream flow, we believe strongly that dedicating the minimum amount necessary to support native warm water fish is of critical importance. The Colorado Division of Wildlife and the Bureau of Land Management's instream flow proposal is in line with our understanding of the minimum amount of water that is needed to support the three warm water fish species. Postponing this decision any longer will erode the effectiveness of an instream flow right, and in the long run may threaten the health of these fish species.

We also believe that the Board should not accept any future depletion allowances or development "carve-outs" as attachments or preconditions to the instream flow application as it moves forward. As the Board is aware, the proposed instream flow is for the minimum amount necessary to prevent further decline to the native fish species, and that any decrease in the proposed amount would likely jeopardize both the efficacy of the instream flow right and the health of the three fish species. However, we have been supportive of CWCB's year long delay of action that has allowed for water users in the area of the proposed instream flow to file for legitimate future water rights prior to the Board moving forward with the intent to appropriate.

We support the instream flow right because the San Miguel River is vital to the protection of three of Colorado's native fish. The flannelmouth sucker, roundtail chub, and the bluehead sucker have seen large population declines in the southwest United States. State governments throughout the region have recognized the need to ensure that these species do not decline further. In 2006, six states, including Colorado, signed the Range-wide Conservation Agreement and Strategy for Roundtail Chub, Bluehead Sucker, and Flannelmouth Sucker. In addition, these species have been identified as an important non-consumptive attribute by every West Slope Basin Roundtable.

Of particular concern is the roundtail chub, which has been listed as a Species of Concern by the states of Arizona, Utah, Wyoming, and Colorado, as well as being listed in New Mexico as "Endangered." Furthermore, the U.S. Fish and Wildlife Service has added the lower basin roundtail chub to the federal list of candidate species for the Endangered Species Act. This listing requires the Service to annually review findings on the chub until a "listing proposal is published, or a not warranted finding is made."

Several states have also formally recognized the decline in the numbers of flannelmouth suckers and bluehead suckers. Arizona, Utah, Colorado, and Wyoming have listed the flannelmouth sucker as a Species of Concern and Utah and Wyoming have also listed bluehead suckers as Species of Concern.

Because these species are native, present and healthy in the stretch of the San Miguel River under consideration for an instream flow right, TNC hopes that the instream flow right will protect these native fish in perpetuity and maintain the overall health of the river. We believe that this instream flow right is a critical step in preventing any further downgrade in the status of the species, and of course, the listing of any of the three species on the Federal endangered species list. To this end, we strongly urge you to declare the Board's intent to appropriate, in the amount proposed by the Colorado Division of Wildlife and the Bureau of Land Management, the instream flow right for the San Miguel at your January 2011 meeting.

Thank you very much for your consideration.

Sincerely,

Adam Bergeron
Water Project Director
abergeron@tnc.org
(720) 974-7032

SAN MIGUEL COUNTY

BOARD OF COMMISSIONERS

ELAINE FISCHER ART GOODTIMES JOAN MAY

December 15, 2010

Jennifer Gimbel, Director
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Lower San Miguel River (Calamity Draw to the Confluence with the Dolores River) Instream Flow Appropriation

Dear Ms. Gimbel and Board Members:

The San Miguel County Board of Commissioners (BOCC) would like to express its sincere appreciation to the Colorado Water Conservation Board (CWCB) for its efforts to create instream flow appropriations on the San Miguel River and its tributaries. The BOCC supports an instream flow appropriation on the lower San Miguel River. We believe the instream flow application should stand alone and not be linked to any form of carve out for future uses or any other application for water rights from any other water user.

We especially thank Linda Bassi and Jeff Baessler for their trips to San Miguel County, where they have met with the BOCC and provided the public with additional information and opportunities to comment about the instream flow appropriation application currently scheduled to be considered by CWCB in late January 2011. We believe this stretch of the river provides outstanding habitat for fish species of concern and will be a valuable addition to the instream flow program.

The BOCC had requested in December 2009 that CWCB delay its application until January 2011 to provide one year for water users to quantify their future water needs and submit an application prior to the proposed January 2011 appropriation date for the instream flow. The County and Southwest Water Conservation District have worked with water users in San Miguel County this past year to look at basin wide storage opportunities and to develop a rational approach to quantify its future water needs. Although we believe that SWCD has put forth a tremendous effort to quantify future water needs, we cannot support their ultimate conclusion or their intent to apply for a future use water right. We believe that any such application would be speculative, in violation of well settled Colorado water law.

Thank you for considering our comments and for your efforts to protect the environmental values of the San Miguel River.

Very truly yours,

SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS

Art Goodtimes, Chair

P.O. BOX 1170 • Telluride, Colorado 81435 • (970) 728-3844 • FAX (970) 728-3718
www.sanmiguelcounty.org

Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Support for Proposed Instream Flow on the San Miguel River

Honorable Board Members:

This letter is in support of the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River (the "Instream Reach"). We strongly support the instream flow application proposed for the San Miguel River, and we urge the Board to apply for the instream flow in 2011 in order to ensure a 2011 priority date.

Last December, when the CWCB staff presented the proposed instream flow to the public at a special meeting of the San Miguel County Commissioners in Norwood, members of the public requested that the CWCB delay its filing for one year in order to enable water users to determine if they had any augmentation or other needs and to file on water rights for such needs in 2010.

Now that the water users have had that opportunity, we urge the Board to move forward with its instream flow application. In San Miguel County, the health of the San Miguel River is of critical importance to our economy both directly and indirectly. Our tourism economy and our real estate and construction economy all rely heavily on a healthy river ecosystem. Several businesses, including boating and fishing businesses, rely directly on sufficient instream flows in both the upper and lower San Miguel. In addition, bird watching, wildlife viewing, hiking and other recreation are all reliant on a strong river ecosystem. We have found in the current economic downturn that our tourism economy continues to support our community. We believe that the river ecosystem will continue to support the economy in all areas of San Miguel County into the future.

As an outfitter, we engage in river rafting and fly fishing on the San Miguel and Dolores rivers. The activities that we outfit are highly prized by the visitors and residents of our region. Instream flows as are supported by the CWCB proposal are beneficial in supporting the activities we engage in. The rafting is impaired due to the highly seasonal flows of the river which have been dramatically impacted by heavy dust layer in the snow in recent years. And the peaking power method of generating electricity at Trout Lake reduces the availability of flow throughout the day.

Maintaining a consistent instream flow is vital to the quality of fishing in the river. As flows dwindle, the fish population suffers and the quality of the fishing declines. The habitat becomes smaller with lower flows and impacts the strength of the fish population. Improved instream flows will maintain a more consistent water temperature which results in higher quality fishing.

We oppose any effort to either link a future use allocation to the proposed instream flow or to create a "carve out" for future uses that would be senior to the instream flow. We have urged water users to identify and file on legitimate water uses, but any carve out or future use allocation is both speculative and a violation of Colorado's long-standing prior appropriation system.

Instream flows are intended to "correlate the activities of mankind with some reasonable preservation of the natural environment." The Board may only appropriate waters required to preserve the natural environment to a reasonable degree.

Preserving the environment to a "reasonable degree" is a fairly low standard that does not allow the Board to appropriate enough water to preserve the natural environment to a high degree. It is simply preserving a small measure of viability for our river ecosystems for future generations. That is a mandate upon which we should all be able to agree. We strongly support the instream flow because we want to leave a healthy, functioning river to our children and our children's children.

Finally, we demand that the Board pursue the instream flow filing to avoid an Endangered Species Act listing, which we believe will have a significantly more deleterious effect on reasonable development in the San Miguel Basin than the proposed instream flow. The Instream Reach has been identified as having an outstanding population of three fish species of concern: roundtail chub, flannelmouth sucker, and bluehead sucker. As the staff report on the proposed appropriation highlights, establishment of such instream flows is a priority conservation action under a multi-state agreement involving the Bureau of Land Management, Colorado Division of Wildlife and other agencies to prevent listing of these species under the Endangered Species Act. We believe the instream flow is the best alternative to prevent an Endangered Species listing.

Sincerely,
Bob Gleason, president
Boot Doctors, Inc dba Further Adventures

Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Support for Proposed Instream Flow on the San Miguel River

Honorable Board Members:

This letter is in support of the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River (the "Instream Reach"). We strongly support the instream flow application proposed for the San Miguel River, and we urge the Board to apply for the instream flow in 2011 in order to ensure a 2011 priority date.

Last December, when the CWCB staff presented the proposed instream flow to the public at a special meeting of the San Miguel County Commissioners in Norwood, members of the public requested that the CWCB delay its filing for one year in order to enable water users to determine if they had any augmentation or other needs and to file on water rights for such needs in 2010.

Now that the water users have had that opportunity, we urge the Board to move forward with its instream flow application. In San Miguel County, the health of the San Miguel River is of critical importance to our economy both directly and indirectly. Our tourism economy and our real estate and construction economy all rely heavily on a healthy river ecosystem. Several businesses, including boating and fishing businesses, rely directly on sufficient instream flows in both the upper and lower San Miguel. In addition, bird watching, wildlife viewing, hiking and other recreation are all reliant on a strong river ecosystem. We have found in the current economic downturn that our tourism economy continues to support our community. We believe that the river ecosystem will continue to support the economy in all areas of San Miguel County into the future.

We oppose any effort to either link a future use allocation to the proposed instream flow or to create a "carve out" for future uses that would be senior to the instream flow. We have urged water users to identify and file on legitimate water uses, but any carve out or future use allocation is both speculative and a violation of Colorado's long-standing prior appropriation system.

Instream flows are intended to "correlate the activities of mankind with some reasonable preservation of the natural environment." The Board may only appropriate waters required to preserve the natural environment to a reasonable degree.

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Finally, we demand that the Board pursue the instream flow filing to avoid an Endangered Species Act listing, which we believe will have a significantly more deleterious effect on reasonable development in the San Miguel Basin than the proposed instream flow. The Instream Reach has been identified as having an outstanding population of three fish species of concern: roundtail chub, flannelmouth sucker, and bluehead sucker. As the staff report on the proposed appropriation highlights, establishment of such instream flows is a priority conservation action under a multi-state agreement involving the Bureau of Land Management, Colorado Division of Wildlife and other agencies to prevent listing of these species under the Endangered Species Act. We believe the instream flow is the best alternative to prevent an Endangered Species listing.

Sincerely,

Eric Dalton
Jagged Edge
Store Owner
Telluride, CO 81435

Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Support for Proposed Instream Flow on the San Miguel River

Honorable Board Members:

This letter is in support of the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River (the "Instream Reach"). We strongly support the instream flow application proposed for the San Miguel River, and we urge the Board to apply for the instream flow in 2011 in order to ensure a 2011 priority date.

Last December, when the CWCB staff presented the proposed instream flow to the public at a special meeting of the San Miguel County Commissioners in Norwood, members of the public requested that the CWCB delay its filing for one year in order to enable water users to determine if they had any augmentation or other needs and to file on water rights for such needs in 2010.

Now that the water users have had that opportunity, we urge the Board to move forward with its instream flow application. In San Miguel County, the health of the San Miguel River is of critical importance to our economy both directly and indirectly. Our tourism economy and our real estate and construction economy all rely heavily on a healthy river ecosystem. Several businesses, including boating and fishing businesses, rely directly on sufficient instream flows in both the upper and lower San Miguel. In addition, bird watching, wildlife viewing, hiking and other recreation are all reliant on a strong river ecosystem. We have found in the current economic downturn that our tourism economy continues to support our community. We believe that the river ecosystem will continue to support the economy in all areas of San Miguel County into the future.

We oppose any effort to either link a future use allocation to the proposed instream flow or to create a "carve out" for future uses that would be senior to the instream flow. We have urged water users to identify and file on legitimate water uses, but any carve out or future use allocation is both speculative and a violation of Colorado's long-standing prior appropriation system.

Instream flows are intended to "correlate the activities of mankind with some reasonable preservation of the natural environment." The Board may only appropriate waters required to preserve the natural environment to a reasonable degree.

Preserving the environment to a "reasonable degree" is a fairly low standard that does not allow the Board to appropriate enough water to preserve the natural environment to a high degree. It is simply preserving a small measure of viability for our river ecosystems for future generations. That is a mandate upon which we should all be able to agree. We strongly support the instream flow because we want to leave a healthy, functioning river to our children and our children's children.

Finally, we demand that the Board pursue the instream flow filing to avoid an Endangered Species Act listing, which we believe will have a significantly more deleterious effect on reasonable development in the San Miguel Basin than the proposed instream flow. The Instream Reach has been identified as having an outstanding population of three fish species of concern: roundtail chub, flannelmouth sucker, and bluehead sucker. As the staff report on the proposed appropriation highlights, establishment of such instream flows is a priority conservation action under a multi-state agreement involving the Bureau of Land Management, Colorado Division of Wildlife and other agencies to prevent listing of these species under the Endangered Species Act. We believe the instream flow is the best alternative to prevent an Endangered Species listing.

Sincerely,

Carl Mackey

San Miguel Whitewater Assoc.
Telluride, CO 81435

SHEEP
MOUNTAIN
ALLIANCE

PO Box 389, Telluride, CO 81435 • 970-728-3729 • FAX 970-239-4989 • www.sheepmountainalliance.org

Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

September 13, 2010

Re: Support for Proposed Instream Flow on the San Miguel River

Honorable Board Members,

Sheep Mountain Alliance, a grassroots organization with over 400 members in the San Miguel watershed, would like to again express our support for the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River (the "Instream Reach"). We strongly support the instream flow application proposed for the San Miguel River, and we urge the Board to apply for the instream flow in 2011 in order to ensure a 2011 priority date.

SMA expressed our support for the instream flow last winter during several public hearings conducted in San Miguel County. Nevertheless we appreciate the decision of CWCB to respectfully comply with the request of members of the public to delay the filing for one year in order to enable water users to determine if they had any augmentation or other needs and to file on water rights for such needs in 2010.

The water users have had their opportunity and we now urge the Board to move forward with its instream flow application. The health of the San Miguel River is of critical importance to all of those in the San Miguel Watershed both economically and environmentally. Developments, agricultural interests, the recreation industry and wildlife all depend on the health of our river system. While some water consumers seem to believe that they can deplete the river and continue to survive, we hope that as informed members of the CWCB you will recognize that *at least* a minimum instream flow is necessary for the continue flow and need of all those who rely on the San Miguel River.

We oppose any effort to either link a future use allocation to the proposed instream flow or to create a "carve out" for future uses that would be senior to the instream flow. Water uses were given the opportunity to identify and file on legitimate water uses. Instead they seem to have resorted to speculative future use needs, which would not only endanger the health of the river but we also suggest is a violation of Colorado's long-standing prior appropriation system.

Instream flows are intended to "correlate the activities of mankind with some reasonable preservation of the natural environment." The Board may only appropriate waters required to preserve the natural environment to a reasonable degree.

Preserving the environment to a "reasonable degree" is a fairly low standard that does not allow the Board to appropriate enough water to preserve the natural environment to a high degree. It is simply preserving a small measure of viability for our river ecosystems for future generations. While we will continue to pursue water conservation measures, watershed education and even stronger preservation of San Miguel River flows, we ask the CWCB take the "minimum" measures to protect the recommended instream flow as soon as possible.

Finally, the Instream Reach has been identified as having an outstanding population of three fish species of concern: roundtail chub, flannelmouth sucker, and bluehead sucker. In consideration of the State of Colorado's significant measures to protect these threatened Colorado River fish we suggest that the Board do its part to avoid an Endangered Species Act listing by filing for the recommended instream flow. While the water users who are in opposition to the instream flow filing seem to ignore the very real possibility of an Endangered Species Listing, we question if the regulations of an Endangered Species Listing will have larger impacts on future reasonable developments in the San Miguel Basin than the perceived impacts from the proposed instream flow.

As the CWCB staff report on the proposed appropriation highlights, establishment of such instream flows is a priority conservation action under a multi-state agreement involving the Bureau of Land Management, Colorado Division of Wildlife and other agencies to prevent listing of these species under the Endangered Species Act.

We urge you to move forward with the recommended insteam flow filing in 2011 to ensure a 2011 priority date.

Sincerely,

Hilary White
Executive Director

PETITION TO THE COLORADO WATER CONSERVATION BOARD
IN SUPPORT OF AN INSTREAM FLOW FOR THE SAN MIGUEL RIVER FROM CALAMITY
DRAW TO THE DOLORES RIVER CONFLUENCE

NAME	CITY, STATE	EMAIL	COMMENTS
Elisabeth Ogilvie	Telluride CO	eogilvie1@gmail.com	
Linda Miller	Telluride	bosque2@earthlink	
Beverly Wintersheid	Mtn Village CO	bwintersheid@comcast.net	
Alfredo Lopez	Telluride	mraxlopez@hotmail.com	
Nancy Landau	Telluride	nancylandau@hotmail.com	
ART GOODTIMES	NORWOOD	gourdy@paleohippie.com	
Joanna Kanow	Telluride, CO	joanna@ecospaces.net	You Rock!
Melanie Kent	Ophir CO	ophirmama@hotmail.com	
Amy Laubenstein	Placerville, CO	alaubenstein@tellurideskiresort.com	
Allison Wolff	Telluride, CO	allison@vibrantplanet.net	
Bob Saunders	TELLURIDE CO	GLIDERBOB@AOL.COM	
Nicole Huckman	Telluride CO	nicole.huckman@gmail	
Mary Brooke Sunderland	Telluride, CO	marybrooke2001@yahoo.com	
BRAD BLACKWELL	Telluride, Co	bradblackwell71@gmail.com	
Corinne Platt	Ophir, CO	corinneplatt@earthlink.net	
Cindy Farny	Telluride, CO	info@highcampxxx.com	
Judy Haas	Telluride CO	judyhaas@me.com	
Shelly Bolus	Ridgway, CO	sbourneb@hotmail.com	

PETITION TO THE COLORADO WATER CONSERVATION BOARD IN SUPPORT OF AN INSTREAM FLOW FOR THE SAN MIGUEL RIVER FROM CALAMITY DRAW TO THE DOLORES RIVER CONFLUENCE

NAME	CITY, STATE	EMAIL	COMMENTS
Pat Sheehan	Telluride	psheehan[illegible]	"go green"
Phil Hayden	Ophir, CO.	lsullivan@mindspring.com	storage is unrealistic!
Barbara Hawkes	Montrose CO		
Bonnie Cohen	Telluride Co	Bonnie Cohen	[illegible]
Stephen McComb	Telluride, Co	smccomb@maxwell.com	1st in Jan 2011 !!
Kathleen McGinnis	Telluride, Co	[illegible]@telluride[illegible]	"Save the River" [illegible]
Chris Marino	Telluride Co	[illegible]	
George Gumeniuk	Telluride, Co	george.gumeniuk@nau.edu	
Biff Harper	Telluride Co.	biff[illegible]@gmail.com	
Tom Hutchinson	Telluride Co	tom@aplinmasonry.com	
Melissa Sumpter	Telluride CO	silkysumpter@hotmail	
ASHLEY BOLINE	TELLURIDE, CO	ASHLEYBOLINE@GMAIL.COM	AGUA ESTA AQUI NECESITA
Angela Mallard	Telluride Co	angelabyrdmallard@yahoo.com	
Laura L Kudo	Telluride, CO	kudos@telluridecolorado.net	so interested in alternatives for West End jobs
Christine McGinley	Telluride, CO	cmmcginley@[illegible].com	
ROBERT TRIMBLE	TELLURIDE CO	trimblerobert@hotmail	
CLAY WADMAN	telluride, co	claywadman@gmail.co	

January 17, 2010

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203
Attention: Jennifer Gimble, Director

Re: Colorado In-Stream Flow Appropriation (San Miguel River from Calamity Draw To the Confluence) comments

Should the CWCB seek in-stream flow rights in our lakes, streams, rivers and their respective tributaries? Absolutely not. I believe here in Western Colorado, along the San Miguel, we ought to have the mind set of *conserving* our water in storage structures rather than letting it all run down the river and beyond our use forever. The San Miguel, as pointed out by a retired water referee, is already over allocated. Forget this (in-steam flow) nonsense and stop hijacking a fish to do it. Better ways to control and maintain flows in a river can be accomplished by developing reservoirs, lakes and dams.

The decision to file an ISF appropriation would adversely affect senior water rights because a junior right, such as this, can challenge a point of diversion or a change of use that a senior holder may seek. The ISF could also potentially harm land values in the lower basin by prohibiting an owner from converting his agricultural water to municipal, industrial, or residential uses if he/she so desires. Consequently, this will have the effect of limiting future opportunities for development, and therein lays the ***rub***.
The problem of water quantification that is being used to support the ISF is also in question.

I have lived near the San Miguel for over 50 years. During the last two decades I have witnessed periods of drought that have, at times, nearly dried up the river. That doesn't factor in the endless water filing and goings on up Telluride way, either. And yet those so called "sensitive Colorado species" of sucker fish still survive. Did they adapt to warm water, low flows, and upstream *activity* despite us or have they gone and then been reintroduced? Hmmm... that sounds like one of those "conspiracy theories" where our government spends millions of hard earned taxpayer dollars to reintroduce lynx, wolves, moose, and bighorn sheep back into an ecosystem.

The CWCB was created by the State and they are the ***only*** entity that can use in-stream flow as a legitimate beneficial use. This goes against my understanding of the original premise of Colorado water law. I believe we are witnessing a water takeover facilitated by the BLM co-opted with the DOW and consummated by a relative of the State. It is always followed with the edict of "protecting the environment for future generations." What about this generation and our economical survival? I also do not approve of the State giving 1.5 million of our tax dollars to CWCB for water acquisition. It has the appearance of shipping our water on down the river for money.

I am one of those senior water holders mentioned above trying to make a living off the land in an area with relatively few jobs now, thanks to both State and Federal

Government energy policies. I also like to think of myself as a producer of goods and services our country needs and desires. Please don't put the water we use here in jeopardy. The in-stream water flow rights will have a dampening effect on economic growth. The livestock industry and others in natural resources have for years been warning of the dire consequences of "environmentalism". There is nothing wrong with protecting resources but "protecting" the environment to the detriment of all other factors is dangerous. The fish and plant environments of Colorado have survived (along with us) without the State tying up more water.

Please take into consideration my comments before making your decision to file on *any* water in this State.

Sincerely,

Shawn Mock

January 25, 2010

Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 721
Denver, Colorado 80203

RE: Lower San Miguel Instream Flow (ISF) Recommendations

Dear Colorado Water Conservation Board Members:

This letter represents a joint effort on behalf of TSG Ski and Golf LLC ("TSG") the owner operator of the Telluride Ski Resort, and the Town of Mountain Village, Colorado (the "Town") both of which are joint water right holders on the upper San Miguel River pursuant to Case No. 90CW112 filed in the District Water Court Division No. 4, State of Colorado.

TSG, the Town and other San Miguel River water right holders recently attended a meeting in Norwood, Colorado to express concern over the proposed Instream Flow Right recommendations by the CWCB. At this meeting the community wished to explore options with regard to storage and other alternatives that would address Department of Wildlife concerns. Therefore, we respectfully request that the CWCB delay taking any action with regard to the proposed ISF for a period of one to two years so that stakeholders can fully explore the options.

ON behalf of TSG and the Town, we thank you for your consideration of this very important matter.

Sincerely,

Dave Riley
CEO
TSG Ski and Golf, LLC

Greg Sparks
Town Manager
Town of Mountain Village, Colorado

cc: San Miguel County Commissioners
Jeff Baessler, CWCB

Viehl, Rob

From: Bassi, Linda
Sent: Monday, January 25, 2010 5:07 PM
To: Viehl, Rob
Subject: FW: Comments for Jan 26, 2010 meeting of CWCB
Attachments: image001.jpg

For electronic file.

From: Brian Wilson [mailto:bwilson@montrosecounty.net]
Sent: Monday, January 25, 2010 4:35 PM
To: Bassi, Linda; Baessler, Jeffrey
Cc: Barr, Lisa; 'Ron Henderson'; 'Jesse Smith'; 'Gary Ellis'; 'David White'
Subject: Comments for Jan 26, 2010 meeting of CWCB

Dear Colorado Water Conservation Board Members

Montrose County wishes to convey our concerns regarding the need for sufficient time to assess the long range water resource needs in the San Miguel river basin. As you are aware Montrose County has asked for assistance from the SWCD in assessing the basin wide needs. This process has been started and Montrose County is committed to following through with this very necessary assessment. As you can see from the stakeholder comments provided in the record there are many significant interested parties. It is Montrose County's contention that the assessment should look at the needs for storage as well as the need for in-stream flows. In the end it is our hope that a mutual solution can be archived that provides water for the healthy growth of the surrounding communities and stakeholders as well as providing for in-stream flows throughout the basin.

Respectfully
Brian W. Wilson P.E.
Director of Public Works

MONTROSE COUNTY
COLORADO

Brian W. Wilson, P.E.
Director of Public Works
Montrose County, Colorado
949 North 2nd. Street
Montrose, CO 81401

bwilson@montrosecounty.net
tel: 970-552-7000
fax: 970-752-7010

Bassi, Linda

From: Ron Henderson [rhenderson@montrosecounty.net]
Sent: Monday, January 25, 2010 4:42 PM
To: Bassi, Linda
Cc: jsmith@montrosecounty.net; 'dwhite'; gellis@montrosecounty.net; 'Brian Wilson'
Subject: San Miguel River Reapportionment

Dear Linda,
This email is to confirm that your conversation with Brian Wilson was initiated by the Montrose Board of Commissioners to convey Montrose County's and West End Montrose County taxpayer concerns to any possible reapportionment of the San Miguel River for in stream flows. Yearly there have been periods of time when the San Miguel River shows no visible signs of flow of water except small random ponds and puddles for several months with the fish surviving. Montrose County is extremely interested in being able to off stream impound water for the use of Naturita/Nucla and the surrounding community.

We need more time to complete a plan. We do not intend to create a hazard for the present San Miguel River Environment. We need assistance from your Board in this matter. We need assistance in gaining grants to line the CCC Ditch so that we can minimize water loss through this diversion. We need assistance gaining grants for off stream water impoundments for the communities as well supplementing those times when the water does not flow.

Water is valuable. The amounts and circumstances of the San Miguel water flow require the remediation indicated in the paragraph above to improve the present conditions. To think passing laws and rules on the present situation to improve the conditions is not attending to the reality present.

Ronald D. Henderson, Chairman
Montrose County BOCC
161 S. Townsend Ave.
Montrose, Colorado 81401

970-249-7755

JENNIFER RUSSELL
jenny.rplaw@montrose.net

russell & pieterse LLC. Attorneys

January 19, 2010

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Proposed Instream Flow: San Miguel River

Honorable Board Members:

This letter is in support of the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River (the "Instream Reach"). My family and I regularly recreate on the San Miguel River, and we believe that a healthy river ecosystem is critical to our economy and our well-being. We also are active boaters and birdwatchers and members of the San Miguel Whitewater Alliance. We strongly oppose any delay in the appropriation of the proposed instream flow.

The Instream Reach has been identified as having an outstanding population of three fish species of concern: roundtail chub, flannelmouth sucker, and bluehead sucker. As the staff report on the proposed appropriation highlights, establishment of such instream flows is a priority conservation action under a multi-state agreement involving the Bureau of Land Management, Colorado Division of Wildlife and other agencies to prevent listing of these species under the Endangered Species Act. The proposed instream flow also will ensure habitat for globally imperiled riparian communities and other important riparian communities.

We support immediate appropriation of the proposed instream flow. Protection of the species of concern through instream flows will help prevent a listing of the species under the ESA. Listing of the species will have a significantly greater impact on development in San Miguel and Montrose counties than the proposed instream flow. As a junior water right, the instream flow will have no impact on existing water rights uses. In addition, few existing water rights users will be impacted if they wish to change their water rights, since the majority of water rights on the San Miguel River are above the Instream Reach.

We also support appropriation of the instream flow because it supports the goals of the instream flow program: protection of the natural environment to a reasonable degree. As Southwest Colorado continues to grow and develop, it is important that we have a means of guaranteeing the protection of functioning ecological systems. As the staff report notes, the proposed flow already has been reduced in the spring and summer months due to availability concerns and is proposed to maximize existing bluehead and flannelmouth sucker habitat *under a declining hydrograph.*

Phase I of the Colorado River Water Supply Availability Study modeled anticipated decreases in

water availability in the Dolores River by 2070. The study predicts a 129,000 acre-foot annual decrease in natural flows in the river, a 32% decrease in historic flow. It is likely that the San Miguel River will experience similar decreases in natural flows. The decrease in flows will further endanger the fish species and the riparian habitat.

We support the instream flow in order to protect a baseline natural riparian environment and the fish species. The anticipated decreases in natural flows in the rivers in our region demonstrate the importance of the proposed instream flow in providing baseline protection for the San Miguel River. Such protection should be ensured first, so that San Miguel and Montrose counties and municipalities can then determine how much water is available for further development.

We urge the CWCB to move forward with the appropriation at its January meeting.

Sincerely,

Jennifer Russell

ec: Board of Directors, Sheep Mountain Alliance
Hilary White, Executive Directors

SHEEP
MOUNTAIN
ALLIANCE

PO Box 389, Telluride, CO 81435 • 970-728-3729 • FAX 970-239-4989 • www.sheepmountainalliance.org

January 19, 2010

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Proposed Instream Flow: San Miguel River

Honorable Board Members:

This letter is submitted on behalf of the 400-member Sheep Mountain Alliance ("SMA") in support of the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River (the "Instream Reach"). SMA's members recreate on the San Miguel River through fishing, boating, bird watching and similar activities; and a number of SMA members also depend upon the San Miguel River for their livelihoods. SMA strongly opposes any delay in the appropriation of the proposed instream flow.

The Instream Reach has been identified as having an outstanding population of three fish species of concern: roundtail chub, flannelmouth sucker, and bluehead sucker. As the staff report on the proposed appropriation highlights, establishment of such instream flows is a priority conservation action under a multi-state agreement involving the Bureau of Land Management, Colorado Division of Wildlife and other agencies to prevent listing of these species under the Endangered Species Act. The proposed instream flow also will ensure habitat for globally imperiled riparian communities and other important riparian communities.

SMA supports immediate appropriation of the proposed instream flow. Protection of the species of concern through instream flows will help prevent a listing of the species under the ESA. Listing of the species will have a significantly greater impact on development in San Miguel and Montrose counties than the proposed instream flow. As a junior water right, the instream flow will have no impact on existing water rights uses. In addition, few existing water rights users will be impacted if they wish to change their water rights, since the majority of water rights on the San Miguel River are above the Instream Reach. SMA also supports appropriation of the instream flow because it supports the goals of the instream flow program: protection of the natural environment to a reasonable degree. As Southwest Colorado continues to grow and develop, it is important that we have a means of guaranteeing the protection of functioning ecological systems. As the staff report notes, the proposed flow already has been reduced in the spring and summer months due

to availability concerns and is proposed to maximize existing bluehead and flannelmouth sucker habitat *under a declining hydrograph.*

Phase I of the Colorado River Water Supply Availability Study modeled anticipated decreases in water availability in the Dolores River by 2070. The study predicts a 129,000 acre-foot annual decrease in natural flows in the river, a 32% decrease in historic flow. It is likely that the San Miguel River will experience similar decreases in natural flows. The decrease in flows will further endanger the fish species and the riparian habitat.

SMA supports the instream flow in order to protect the baseline natural riparian environment and the fish species. The anticipated decreases in natural flows in the rivers in our region demonstrate the importance of the proposed instream flow in providing the minimum quantity of water necessary to protect the San Miguel River ecosystem. Such protection should be ensured first, so that San Miguel and Montrose counties and municipalities can then determine how much water is available for further development.

We urge the CWCB to move forward with the appropriation at its January meeting.

Sincerely,

Hilary White
Executive Director

ec: Board of Directors, Sheep Mountain Alliance

Lone Cone Ditch and Reservoir Company
P.O. Box 427
Norwood, Colorado 81423

January 19, 2010

Colorado Water Conservation Board
Attention Linda Bassi
1313 Sherman Street, Room 721
Denver, Colorado 80203

Dear Colorado Conservation Board Members,

We extremely appreciated and are impressed by the public meetings held in Norwood, Colorado on the proposed in-stream flow for the San Miguel River. We thank all the members of the CWCB staff, County Commissioners, water board members, farmers, ranchers, and public members for their important ideas and suggestions.

The Lone Cone Ditch and Reservoir Company is a local company composed of families of several generations and new members alike. We have 49 shareholders and deliver irrigation water with 216 shares. We are opposing the proposed in-stream flow for the Lower San Miguel River.

We have many concerns and summarize them as follows:

1. The Bikis Water Consulting (BWC) study does not support the same conclusion as CWCB/DOW study in many areas. The BWC study indicates that the water availability is impossible to meet most of the year and the river will be on call the majority of the year. The studies vary greatly in the minimum appropriations for the general health of the ecosystem of the San Miguel River. The BWC study has concluded that the CWCB's in-stream flow requests are much higher than needed to provide for the natural health of the current and desired eco-system.
2. A very important aspect of the natural environment is the accounting for the groundwater. We feel the CWCB/DOW study does not account for this important calculation in their determination of the proposed in-stream flow.
3. A summary of the December 10, 2009 meeting was that we should work toward the implementation of an augmentation plan. We support this proposal, however, with "absolute in-stream flow" this creates a situation that will be prohibitive to participate due to huge costs for the study, engineering, and implementation of any project. To participate in any change of water right for a new use, such as an augmentation plan, may be honorable but we cannot afford to loose our senior water rights.

In conclusion, we do not support any in-stream flow proposal. At a time when Colorado's water is so important to our future on Wright's Mesa, we have the right to protect both current and future water use under Colorado Water Law. The current proposal will deny future opportunity for this community to change water rights for any beneficial use that we envision.

Thank you for your attention to this important matter.

Sincerely,

Mark Vandenberg

Mark Vandenberg, President

SAN JUAN CITIZENS ALLIANCE

January 19, 2010

Ms. Linda Bassi
Colorado Water Conservation Board
1313 Sherman Street, Room 723,
Denver, Colorado, 80203

Dear Ms. Bassi,

Please accept this letter as formal support of the proposed instream flow for the San Miguel River from Calamity Draw to the confluence with the Dolores River. Our organization is a regional environmental non-profit with over 500 members in the greater Four Corners area. Our members utilize the San Miguel basin for a multiplicity of recreational activities including boating, fishing, hiking, and other activities. Our river campaign is dedicated to the protection of our regional streams in both quality and quantity and greatly supports the work of the CWCB Instream Flow Program.

The proposed instream flow reach has been identified as having an outstanding population of the three fish species of concern (roundtail chub, flannelmouth sucker, and bluehead sucker). As noted by CWCB staff, establishing instream flows is a priority under the multi-state agreement to prevent Endangered Species Act listing of these species. This instream flow recommendation would protect baseline habitat for these species. As a priority action under the multi-state agreement, we support this proposal moving forward without delay. Furthermore, we agree that the listing of these species will have a significantly greater impact on development in San Miguel and Montrose counties than the proposed instream flow. Specifically, because the majority of water rights on the San Miguel River are above the proposed instream flow reach.

With the estimated decrease in stream flow for this region by 2070 (as noted in the Phase I Colorado River Water Supply Availability Study), securing baseline protections for the three fish species of concern and riparian habitat is a critical step in maintaining the natural environment of the San Miguel River to a reasonable degree. We encourage the Board to move forward with this proposal without any delay in filing.

Sincerely,

Meghan L. Maloney

Meghan L Maloney
River Campaign Director

Cc: J. Baessler, CWCB Staff

1022½ Main Avenue
PO Box 2461
Durango, CO
81302

970.259.3583
970.259.8303

Viehl, Rob

From: Bassi, Linda
Sent: Thursday, January 21, 2010 10:17 AM
To: Viehl, Rob; Baessler, Jeffrey
Subject: Fw: ISF San Miguel

For distribution to the board next week.

From: bootdr1@aol.com
To: Bassi, Linda
Cc: cari@jagged-edge-telluride.com ; joanm@sanmiguelcounty.org ; artg@sanmiguelcounty.org ; elainef@sanmiguelcounty.org
Sent: Thu Jan 21 09:26:55 2010
Subject: ISF San Miguel

Hi Linda,

The San Miguel river is a beautiful gem in the Colorado River system. It has natural characteristics rare in modern river systems. It has a healthy fish population and supports diverse wildlife in its riparian habitat.

During the later months of summer and into the fall the San Miguel is compromised due to its dewatering. The Horsefly Diversion in the lower Norwood Canyon takes a majority of the flow of the river from mid July on in a typical year. The lower San Miguel below the diversion and the Dolores below the confluence with the San Miguel in the historic Hanging Flume Canyon slows to a trickle. Fish habitat is dramatically squeezed in the low flows. Vegetation over grows the river bed. Water temperature rises to levels that hinder the fish population an alters the natural characteristics of the river.

I strongly urge the institution of minimal in stream flows in the San Miguel through its lower reaches.

Thank you,
Bob Gleason
San Miguel Whitewater Association

San Miguel Whitewater Association
PO Box 2256, Telluride, CO 81435
970-728-9307ph | 970-728-9072 fax

January 19, 2010

Dear Board Members,

I write to you as the voice of 75 paid members and an interest group of roughly 225 people called the San Miguel Whitewater Association (SMWA). We are a group comprised of recreational as well as professional river enthusiasts. As a group, one of our main goals is to help to protect our rivers and watershed.

SMWA supports the proposed instream flow for the reach of the San Miguel River from Calamity Draw to the confluence with the Dolores River. We support the instream flows for numerous reasons. We understand that three species of fish; the roundtail chub, flannelmouth sucker, and bluehead sucker, rely on this instream flow in order to thrive and prevent listing under the endangered species act. We also support this instream flow to protect the health and future of this beautiful place we all cherish.

We urge the CWCB to move forward with the appropriation at its January meeting, and oppose any delay in the appropriation of the proposed instream flow.

Sincerely,

Cari Mackey
Secretary and treasurer,
San Miguel Whitewater Association

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.
HEADQUARTERS: P.O. BOX 33695 DENVER, COLORADO 80233-0695 303-452-6111

January 18, 2010

RECEIVED
JAN 20 2010
Colorado Water Conservation Board

Colorado Water Conservation Board
1313 Sherman Street, Room No. 721
Denver, CO 80203

Dear Directors:

Tri-State Generation and Transmission Association, Inc. ("Tri-State") operates Nucla Station, a 100 megawatt power plant located in Nucla, Colorado, on the mainstem of the San Miguel River. With significant water rights on the San Miguel River, Tri-State is a significant stakeholder with regard to the proposed appropriation of a minimum instream flow on this river. As such, Tri-State asks that the Colorado Water Conservation Board defer its appropriation of minimum instream flows on the San Miguel River until 2011.

Currently, few water rights divert directly from the San Miguel River below Naturita. As such, this stretch of the San Miguel River is not an overappropriated system for much of the year. Given these characteristics, appropriation of a minimum instream flow on the mainstem of the San Miguel River would constitute a major change in the administration of the San Miguel River. These changes in administration will have serious basin-wide effects on the use and transfer of existing and future water rights.

Deferring the appropriation of a minimum instream flow on the mainstem of the San Miguel River until 2011 would give major stakeholders such as Tri-State, and all other water rights holders in the San Miguel basin, the time necessary to study and anticipate the implications of a minimum instream flow on the San Miguel River. Without this time, the input received by the Board will not likely be complete, accurate, or representative of the broad interests in the San Miguel basin.

Moreover, Tri-State fears that without the proper time to plan, the water rights required to operate the Nucla Station would be impacted. Nucla Station is a provider of electricity in southwestern Colorado. If Nucla Station were not able to operate due to interference with its water rights, the consequences would fall to the surrounding communities in southwestern Colorado which depend on Nucla Station.

We thank you in advance for considering our request. We believe deferring the appropriation is best for the CWCB, stakeholders in the San Miguel basin, and southwestern Colorado.

Sincerely

William F. Haffner
Sr. Manager Fuel & Water Resources

The Nature Conservancy
Protecting nature. Preserving life.

The Nature Conservancy in Colorado
2424 Spruce Street
Boulder, CO 80302

tel [303] 444-2950
fax [303] 444-2986

nature.org/colorado

January 15, 2010

Jeffrey Baessler
Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203
FAX 303-866-4474

Dear Colorado Water Conservation Board Members,

The Nature Conservancy would like to voice its support for an in-stream flow right for the San Miguel River between Calamity Creek and the confluence with the Dolores River. As a landowner of nearly half of the river miles being considered for an in-stream flow we believe strongly that dedicating the minimum amount necessary to supportive native warm water fish is of critical importance. The Colorado Division of Wildlife and the Bureau of Land Management's in-stream flow proposal is in line with our understanding of what minimal water is needed to support the three warm water fish species. We feel strongly that postponing this decision any longer will erode the effectiveness of an in-stream flow right, and that this in the long run will threaten the health of these fish species. That said, we understand the need to enhance broad support for the proposal and therefore are supportive of CWCB's delay of action until March 2010.

Our support of the in-stream flow right is derived from the presence of three native warm water fish in the San Miguel River. The flannelmouth sucker, roundtail chub, and the bluehead sucker have seen large population declines in the southwest United States. Federal and state agencies have recognized this fact and have started working to protect these native fish species.

Of particular concern is the roundtail chub which has been listed as a Species of Concern by the states of Arizona, Utah, Wyoming, and Colorado, as well as being listed in New Mexico as "Endangered," as stated by the Utah Department of Natural Resources. Furthermore, the U.S. Fish and Wildlife Service has added the lower basin roundtail chub to the federal list of candidate species for the Endangered Species Act. This listing requires the Service to annually review findings on the chub until which time a "listing proposal is published, or a not warranted finding is made" as published by the U.S Fish and Wildlife Service Arizona Ecological Services Field Office.

The decline in the numbers of flannelmouth suckers and bluehead suckers has also been recognized by several states. The flannelmouth sucker has been listed as a Species of Concern by Arizona, Utah, Colorado, and Wyoming. Utah and Wyoming have also listed bluehead suckers as Species of Concern.

Because these species are native, present and healthy in this stretch of the San Miguel River it is expectation that an in-stream flow right on the San Miguel will protect these native fish in perpetuity and improve the overall health of the river. Additionally, taking this in March of 2010 will help prevent the need for further action by federal and state wildlife management agencies

should the native fish decline in health. To this end, we strongly urge you to dedicate the amount of water proposed by the Colorado Division of Wildlife and the US Bureau of Land Management for in-stream flow at your March 2010 meeting.

Thank you very much for your consideration.

Sincerely,

Peter Mueller
N. San Juans Project Director
pmueller@tnc.org
(970) 726-5291 office
(970) 708-1368 cell

TOWN OF NATURITA

222 East Main Street
P.O. Box 505
Naturita, CO 81422

Phone: 970-865-2286
Fax: 970-865-2815
Email: townclrknaturita@aol.com

January 12, 2010

RECEIVED

JAN 18 2010

Colorado Water Conservation Board

Linda J. Bassi
Colorado Water Conservation Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

RE: Lower San Miguel River (Calamity Draw to the Confluence) Instream Flow Appropriation

Dear Ms. Gimbel and Board Members:

The Town of Naturita was established in September 15, 1888 and incorporated in August 8, 1951. The Town owns the following water rights which have been decreed for municipal purposes, the source of which water is the Reed and Chatfield Ditch, with Priority Number 76, Decree Date 1911, amount is 1.19 c.f.s., Decreed Use: Municipal, Case Number 1627/ W-3151 and Priority Number 329, Decree Date 1939, amount 0.60 c.f.s., Decreed Use: Municipal, Case Number 4641/ W-3151, Priority Number 329c, Decree Date 1939, Priority Number 329c, Decree Date 1939, amount 4.0 c.f.s., Decreed Use irrigation, Case Number 4641.

The Town of Naturita has been decreed an alternate point of diversion for its municipal water at the location of the Naturita Town Well described as: a point on the NW ¼ NW ¼, Section 29, Township 46 North, Range 13 West, N.M.P.M., 600 FEET FROM THE North line and 600 feet from the West line, and is tributary to the San Miguel River. The Town of Naturita transports our Municipal water shares to Mustang Water Authority through the Colorado Cooperative Company ditch.

The Mayor and Board of Trustees for the Town of Naturita would like to voice their opposition to the proposed in-stream flow appropriations on the lower San Miguel River between Calamity Draw and the confluence of the Delores River. Such proposals should be abandoned as be inappropriate and unnecessary in these circumstances.

The proposed ISF by CWCB and the DOW creates an undue burden on all users in the lower San Miguel River basin, denying us the flexibility to change our water rights for different uses and places of use as allowed under Colorado Water Law. The Colorado Supreme Court has routinely opined that the flexibility to change water rights to new uses to meet changing demands is one of the most vital characteristics of Colorado's prior appropriation system. The CWCB's proposed over-appropriation of the lower San Miguel River would deny the water users there from such future opportunity to change water rights to meet changing demands for beneficial use, resulting in a devaluing of all such affected water rights.

The proposed ISF is also unnecessary to maintain sufficient flows in this segment of the San Miguel River, as the administration of this portion of the San Miguel River is typically controlled by the downstream call of Tri-State, which acts to maintain river

flows in order to ensure such delivery. The CWCB is authorized to appropriate only the minimum necessary to maintain the natural environment and the environment is already satisfactorily maintained by existing administrative regiments.

The proposed ISF will do little to provide "wet" water to the San Miguel River, due to a flawed CWCB water availability analysis. Bikis Water Consultants has opined that the studies conducted by CWCB/DOW as to water availability are flawed, and that during significant portions of most years, the recommended ISF flows will simply not physically be available in the San Miguel River. Despite the river falling below those amounts that the CWCB asserts necessary to maintain the natural environment, the environment somehow continues to bye maintained. CWCB/DOW fails to account for the gaining nature of the lower San Miguel River, including the subject reach, in calculating the minimum ISF required. CWCB's study area was far upstream on the proposed ISF reach, and failed to account for inflows of surface and ground water below such point which increase the flows of the San Miguel River. As such, CWCB's calculations as to minimum stream flow requirements are further flawed for down-river portions of the river which experience increased flows. To the extent that any ISF appropriation might be appropriate, such minimum appropriation must necessarily be reduced as flows in the river increase. CWCB/DOW's engineering calculations concerning the minimum amount of instream flows necessary to protect and maintain the natural environment to a reasonable degree are neither minimums nor reasonable. Bikis Water Consultants determined that CWCB/DOW's calculations concerning allegedly required minimum flows contained a "relatively high level of uncertainty" with an effective range of 28 c.f.s. to 431 c.f.s., and that necessary scientific criteria could be met at far reduced flows than those claimed by CWCB. Flows less than those claimed to be required by CWCB were experienced by Bikis Water Consultants during their independent study of the stream, with flows of 69 c.f.s. being present in the river on March 17, 2009, a time of year in which CWCB claims a minimum of 115 c.f.s. is required to maintain the natural environment. Again, the natural environment somehow manages to be maintained nonetheless.

There is no evidence that the health of the River is now or ever will be endangered because of the existing water rights regime. An ISF of this size consigns this part of the State to never be able to economically flourish because the cost to maintain the high ISF flows will be prohibitive – i.e. costs for construction of a reservoir to store water in order to make releases to maintain an ISF that is not actually present. The tables presented by the CWCB/DOW at the meetings in Naturita and Norwood were presented by show that the ISF is maintained 50% of the time and misleading, and based upon what Bikis Water Consultants believe to be a flawed model (geometric mean). In fact, based on the Bikis Water Consultants analysis, the recommended ISF flows are actually not met today much of the time.

The Mayor and Board of Trustees of the Town of Naturita is opposed to the proposed instream flow appropriations on the lower San Miguel River. These proposals are inappropriate and unnecessary for the lower San Miguel River.

Thanks for considering our concerns with the lower San Miguel River.

Sincerely
Town of Naturita
Mayor and Board of Trustees

Cc: Jennifer Gimbel, Director, Colorado Water Conservation Board
Bob Herford, Water Division No. 4

WESTERN
FUELS
ASSOCIATION
INC.
The National
Fuel Supply
Cooperative

January 11, 2010

Colorado Water Conservation Board
1313 Sherman St., Room No. 721
Denver, CO 80203

Dear Directors:

Western Fuels-Colorado, LLC ("Western Fuels") operates the New Horizon Mine, located near Nucla, Colorado, on the San Miguel River. The New Horizon Mine is the source of coal to the Nucla Station, a 100 megawatt coal power plant operated by Tri-State Generation and Transmission Association, Inc., which provides electricity to communities in southwestern Colorado. Western Fuels has water rights on the San Miguel River, making it a stakeholder with regard to the proposed appropriation of a minimum instream flow on this river. As such, Western Fuels asks that the Colorado Water Conservation Board defer its appropriation of minimum instream flows on the San Miguel River until 2011.

Deferring the appropriation of a minimum instream flow on the mainstem of the San Miguel River until 2011 would give stakeholders such as Western Fuels, and all other water rights holders in the San Miguel basin, the time necessary to study and anticipate the implications of a minimum instream flow on the San Miguel River. Without this time, the input received by the Board will not likely be complete, accurate, or representative of the broad interests in the San Miguel basin.

Moreover, Western Fuels fears that without the proper time to plan, the water rights required to operate the New Horizon Mine and provide coal to Nucla Station would be in jeopardy. No railroad corridor passes by Nucla Station; therefore, the New Horizon Mine is the only economically viable source of coal to Nucla Station. Nucla Station is a significant provider of electricity in southwestern Colorado. If Nucla Station were not able to operate due to interference with water rights at the New Horizon Mine, unknown consequences would fall to the surrounding communities in southwestern Colorado which depend on Nucla Station.

We thank you in advance for considering our request. We believe deferring the appropriation is best for the CWCB, stakeholders in the San Miguel basin, and southwestern Colorado.

Sincerely,

Duane L. Richards
Chief Executive Officer

FARMER'S WATER DEVELOPMENT COMPANY
PO Box 10, Norwood, CO 81423
970-327-0484 FarmersWDC@yahoo.com

December 21, 2009

Colorado Water Conservancy Board
Attn: Linda Bassi
1313 Sherman Street, Room 721
Denver, CO 80203

To Whom It May Concern:

Our board, who represent 204 individual stockholders, has been reviewing the various reports regarding instream flows presented by the CWCB in conjunction with the Department of Wildlife, as well as those provided by Bikis Water Consultants, and we have several concerns as follows:

- The initial governmental studies appear to be inadequate and misleading, and they do not consider all criteria necessary to make accurate projections. Additionally, the projections provided are very vague and do not supply realistic minimums that the river can provide on an average year.
- The proposed minimal levels creates an undue burden on all users of the lower river basin, and will inhibit our flexibility to change our water rights for different uses as is provided for by Colorado law.
- The river has proved to support a "natural environment" year after year at levels well below that of the proposed minimums in the governmental studies, and the administration of the downstream "call" of Tri-State acts to maintain and ensure the delivery of the realistic current minimums necessary to continue to maintain that environment.
- The instream flows will do little to provide wet water to the San Miguel River. There is no evidence that the health of the river is now, or ever will be, endangered.

After significant review, our board has agreed to request that the instream flow proposal should be rejected and abandoned, as it will have severe and long-term adverse effects. The proposal itself is unnecessary to maintain the environment of the river, and is therefore inappropriate.

Thank you for considering our request.

Sincerely,

David Alexander, President
Board of Directors

320 Main Street
P.O. Box 219
Nucla, CO 81424-0219

(970) 864-7351
(970) 864-7800 fax

December 23, 2009

Jennifer Gimbel, Director
Colorado Water Conservation Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

RE: Lower San Miguel River (Calamity Draw to the Confluence) Instream Flow Appropriation

Dear Ms. Gimbel and Board Members:

The Town of Nucla was established in the late 1800's and incorporated in 1915. The Town of Nucla transports our Municipal water shares to Mustang Water Authority through the Colorado Cooperative Company ditch.

The Mayor and Board of Trustees for the Town of Nucla would like to voice their opposition to the proposed in-stream flow appropriations on the lower San Miguel River between Calamity Draw and the confluence of the Delores River. Such proposals should be abandoned as they are inappropriate and unnecessary in these circumstances.

The proposed ISF by CWCB and the DOW creates an undue burden on all users in the lower San Miguel River basin, denying us the flexibility to change our water rights for different uses and places of use as allowed under Colorado Water Law. The Colorado Supreme Court has routinely opined that the flexibility to change water rights to new uses to meet changing demands is one of the most vital characteristics of Colorado's prior appropriation system. The CWCB's proposed over-appropriation of the lower San Miguel River would deny the water users there from such future opportunity to change water rights to meet changing demands for beneficial use, resulting in a devaluing of all such affected water rights.

The proposed ISF is also unnecessary to maintain sufficient flows in this segment of the San Miguel River, as the administration of this portion of the San Miguel River is typically controlled by the downstream call of Tri-State, which acts to maintain river flows in order to ensure such delivery. The CWCB is authorized to appropriate only the minimum necessary to maintain the natural environment and the environment is already satisfactorily maintained by existing administrative regiments.

The proposed ISF will do little to provide "wet" water to the San Miguel River, due to a flawed CWCB water availability analysis. Bikis Water Consultants has opined that the studies conducted by CWCB/DOW as to water availability are flawed, and that during significant portions of most years, the recommended ISF flows will simply not physically be available in the San Miguel River. Despite the river falling below those amounts that the CWCB asserts necessary to maintain the natural environment, the environment somehow continues to bye maintained. CWCB/DOW fail to account for the gaining nature of the lower San Miguel River, including the subject reach, in calculating the minimum ISF required. CWCB's study area was far upstream on the proposed ISF reach, and failed to account for inflows of surface and ground water below such point which increase the flows of the San Miguel River. As such, CWCB's calculations as to minimum stream flow requirements are further flawed for down-river portions of the river which experience increased flows. To the extent that any ISF appropriation might be appropriate, such minimum appropriation must necessarily be reduced as flows in the river increase. CWCB/DOW's engineering calculations concerning the minimum amount of instream flows necessary to protect and maintain the natural environment to a reasonable degree are neither minimums nor reasonable. Bikis Water Consultants determined that CWCB/DOW's calculations concerning allegedly required minimum flows contained a "relatively high level of uncertainty" with an effective range of 28 c.f.s. to 431 c.f.s., and that necessary scientific criteria could be met at far reduced flows than those claimed by CWCB. Flows less than those claimed to be required by CWCB were experienced by Bikis Water Consultants during their independent study of the stream, with flows of 69 c.f.s. being present in the river on March 17, 2009, a time of year in which CWCB claims a minimum of 115 c.f.s. is required to maintain the natural environment. Again, the natural environment somehow manages to be maintained nonetheless.

There is no evidence that the health of the River is now or ever will be endangered because of the existing water rights regime. An ISF of this size consigns this part of the State to never be able to economically flourish because the cost to maintain the high ISF flows will be prohibitive – i.e. costs for construction of a reservoir to store water in order to make releases to maintain an ISF that is not actually present. The tables presented by the CWCB/DOW at the meetings in Naturita and Norwood were presented by show that the ISF is maintained 50% of the time and misleading, and based upon what Bikis Water Consultants believe to be a flawed model (geometric mean). In fact, based on the Bikis Water Consultants analysis, the recommended ISF flows are actually not met today much of the time.

The Mayor and Board of Trustees of the Town of Nucla are opposed to the proposed instream flow appropriations on the lower San Miguel River. These proposals are inappropriate and unnecessary for the lower San Miguel River.

Thanks for considering our concerns with the lower San Miguel River.

Sincerely
Town of Nucla
Mayor and Board of Trustees

Cc: Linda J. Bassi, Colorado Water Conservation Board
Bob Herford, Water Division No. 4

NORWOOD WATER COMMISSION
1670 NATURITA STREET
P.O. BOX 528
NORWOOD, COLORADO 81423
(970) 327-4288 · (970) 327-0451 FAX

December 16, 2009

Colorado Water Conservation Board
Colorado Water Conservation Board of Directors
Attn: Jennifer Gimbel, Director
1313 Sherman St., Room 721
Denver, CO 80203

RE: Proposed Instream Flow Appropriations for the Lower San Miguel River.

Dear Ms. Gimbel and Board of Directors:

I would like to take this opportunity to thank the CWCB Board of Directors and your staff, Linda Bassi and Jeff Baessler for taking the time and effort to hold the public meetings in Norwood regarding the potential instream flow appropriation on the San Miguel River below Calamity Draw to the Dolores River and Tabaguache Creek tributaries.

The Norwood Water Commission Board is in opposition to the proposed instream flow and strongly urges the CWCB Board to not approve the recommended instream flow appropriations at your January 2010 meeting. We respectfully request that the CWCB Board of Directors extend the timetable for public comment regarding the appropriations on the instream flows in the San Miguel River from Calamity Draw to the Dolores River and Tabaguache Creek tributaries until your Directors have had time to adequately consider the report that has been completed by Bikis Water Consultants LLC and other options such as building off stem reservoirs in our area to release water to the San Miguel River when needed to protect the fish habitat. We also strongly suggest that CWCB take into consideration the more recent snowpack and weather pattern studies that reflect the rapidly changing climate. We believe that your studies based on the 30 year average of snowpack do not accurately reflect the most recent changes in weather patterns.

The Norwood Water Commission's mission is to ensure our ability to serve our customers is not jeopardized by a potential instream flow. Our Municipal water supply is heavily linked with Farmers Water Development Company and we want a guarantee that the priority of our water right is protected and that it supersedes any subsequent appropriation by CWCB. The Norwood Water Commission has various conditional decrees that we have been diligently working toward making absolute; however, it is impossible for us to bring all these decrees to fruition before the proposed CWCB filing date. We need to be confident that under any circumstance in the future, the Norwood Water Commission can provide water to our customers without becoming junior to a CWCB appropriation.

The Norwood Water Commission Board appreciates CWCB's continued efforts regarding our environment and all the measures that have been taken protect the wildlife habitat. Thank you for your time and consideration of this request. If you have any questions regarding this letter, please contact our Administrator, Pam Grafmyer at 970-327-4288 or norwoodparker@centurytel.net.

Respectfully,

Finn Kjome

Finn Kjome, Chairman
Norwood Water Commission

Cc: Norwood Board of Trustees
Farmers Water Development Company

SAN MIGUEL COUNTY

BOARD OF COMMISSIONERS

ELAINE FISCHER ART GOODTIMES JOAN MAY

December 14, 2009

Jennifer Gimbel, Director
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Lower San Miguel River (Calamity Draw to the Confluence) Instream Flow Appropriation

Dear Ms. Gimbel and Board Members:

The San Miguel County Board of Commissioners (BOCC) would like to express its sincere appreciation to the Colorado Water Conservation Board (CWCB) for its efforts to create instream flow appropriations on the San Miguel River and its tributaries. We especially thank Linda Bassi and Jeff Baessler for their recent trips to San Miguel County, where they met with the BOCC and the public to provide more information and to hear comments about the instream flow appropriation application currently scheduled to be considered by CWCB on the lower San Miguel between Calamity Draw and the confluence of the Dolores River.

The BOCC supports an instream flow appropriation on the lower San Miguel. This stretch of the river provides outstanding habitat for fish species of concern. However, because of the county's and water users' recent efforts to look at basin wide storage, it would request that CWCB proceed with the appropriation and water court application in 2011.

We are committed to working with water users to consider basin-wide storage efforts during the upcoming year, but also realize the importance of an instream flow appropriation on the lower San Miguel. Therefore we believe a January 2011 application date would provide ample time to quantify future water needs.

Thank you for considering our comments and your efforts to protect the environmental values of the San Miguel River.

Very truly yours,

SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS

Elaine R.C. Fischer

Elaine R.C. Fischer, Chair

P.O. BOX 1170 • Telluride, Colorado 81435 • (970) 728-3844 • FAX (970) 728-3718
www.sanmiguelcounty.org

Colorado Cooperative Company

P.O. Box 231 - Nucla, Colorado 81424

RECEIVED

DEC 17 2009

Colorado Water Conservation Board

December 14, 2009

Jennifer Gimbel, Director
Colorado Water Conservation Board of Directors
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

RE: Lower San Miguel River (Calamity Draw to the Confluence) Instream Flow Appropriation

Dear Ms. Gimbel and Board Members:

The Colorado Cooperative Company was incorporated in January of 1890 and began work on an extensive water project soon after. This water project consisted of approximately 18 miles of main ditch; bringing the water from the San Miguel River to the Park (Nucla and surrounding area) and approximately 22 miles of ditch on the Park. The construction of the ditch was completed in 1896. The Colorado Cooperative Company holds some of the oldest water rights on the San Miguel River with a total of 145 cfs. It provides all of the irrigation water for Nucla and the surrounding area and it also provides the domestic water for the towns of Nucla and Naturita.

The Board of Directors of the Colorado Cooperative Company would like to voice their opposition to the proposed in-stream flow appropriations on the lower San Miguel River between Calamity Draw and the confluence of the Dolores River. Such proposals should be abandoned as being inappropriate and unnecessary in these circumstances.

The proposed ISF by CWCB and the DOW creates an undue burden on all users in the lower San Miguel River basin, denying us the flexibility to change our water rights for different uses and places of use as allowed under Colorado Water Law. The Colorado Supreme Court has routinely opined that the flexibility to change water rights to new uses to meet changing demands is one of the most vital characteristics of Colorado's prior appropriation system. The CWCB's proposed over-appropriation of the lower San Miguel River would deny the water users there from such future opportunity to change water rights to meet changing demands for beneficial use, resulting in a devaluing of all such affected water rights.

The proposed ISF is also unnecessary to maintain sufficient flows in this segment of the San Miguel River, as the administration of this portion of the San Miguel River is typically controlled by the downstream call of Tri-State, which acts to maintain river flows in order to ensure such delivery. The CWCB is authorized to appropriate only the minimum necessary to maintain the natural environment, and the environment is already satisfactorily maintained by existing administrative regimens.

The proposed ISF will do little to provide "wet" water to the San Miguel River, due to a flawed CWCB water availability analysis. Bikis Water Consultants has opined that the studies conducted by CWCB/DOW as to water availability are flawed, and that during significant portions of most years, the recommended ISF flows will simply not physically be available in the San Miguel River. Despite the river falling below those amounts that the CWCB asserts necessary to maintain the natural environment, the environment somehow continues to be maintained. CWCB/DOW fails to account for the gaining nature of the lower San Miguel River, including the subject reach, in calculating the minimum ISF required. CWCB's study area was far upstream on the proposed ISF reach, and failed to account for inflows of surface and ground water below such point which increase the flows of the San Miguel River. As such, CWCB's calculations as to mimimum stream flow requirements are further flawed for down-river portions of the river which experience increased flows. To the extent that any ISF appropriation might be appropriate, such minimum appropriation must necessarily be reduced as flows in the river increase. CWCB/DOW's engineering calculations concerning the minimum amount of instream flows necessary to protect and maintain the natural environment to a reasonable degree are neither minimums nor reasonable. Bikis Water Consultants determined that CWCB/DOW's calculations concerning allegedly required minimum flows contained a "relatively high level of uncertainty", with an effective range of 28 cfs to 431 cfs, and that necessary scientific criteria could be met at far reduced flows than those claimed by CWCB. Flows less than those claimed to be required by CWCB were experienced by Bikis Water Consultants during their independent study of the stream, with flows of 69 cfs being present in the river on March 17, 2009, a time of year in which CWCB claims a minimum of 115 cfs is required to maintain the natural environment. Again, the natural environment somehow manages to be maintained nonetheless.

There is no evidence that the health of the River is now or ever will be endangered because of the existing water rights regime. An ISF of this size consigns this part of the State to never be able to economically flourish because the COST to maintain the high ISF flows will be prohibitive – i.e. costs for construction of a reservoir to store water in order to make releases to maintain an ISF that is not actually present. The tables presented by the CWCB/DOW at the meetings in Naturita and Norwood were presented to show that the ISF is maintained 50% of the time are misleading, and based upon what Bikis Water Consultants believe to be a flawed model (geometric mean). In fact, based on the Bikis Water Consultants analysis, the recommended ISF flows are actually not met today much of the time.

The Board of Directors of the Colorado Cooperative Company is opposed to the proposed in-stream flow appropriations on the lower San Miguel River. These proposals are inappropriate and unnecessary for the lower San Miguel River.

Thank you for considering our comments and concerns with the lower San Miguel River.

Very truly yours,

COLORADO COOPERATIVE COMPANY
BOARD OF DIRECTORS

Cc: Linda J. Bassi, Colorado Water Conservation Board
Bob Hurford, Water Division No. 4

Martha Grewal
P.O.Box 1061
Cedaredge CO 81413
17 November 2009

Ms. Linda Bassi
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver Colorado 80203

Ref: Proposed CWCB Instream Flow Appropriations for 2010

Dear Ms. Bassi:

The Black Canyon Audubon Society is the local chapter of the National Audubon Society for Delta, Gunnison, Hinsdale, Montrose, San Miguel and Ouray Counties. I am writing to express the support of the Black Canyon Audubon Society for the proposed instream flow appropriations in our service areas as follows:

Big Dominguez Creek – Delta County
Little Dominguez Creek – Delta County
Blue Creek – Gunnison County
South Willow Creek – Gunnison County
Alpine Gulch - Hinsdale County
Spring Creek – Hinsdale County
Cebolla Creek (2 reaches) – Hinsdale/Gunnison Counties
North Fork Tabaguache Creek – Montrose County
Red Canyon Creek – Montrose County
San Miguel River – Montrose County
Tabaguache Creek (2 reaches) – Montrose County

The Black Canyon Audubon Society works to promote education, habitat preservation, and enjoyable and informative outings for our members. Our chapter has about 300 members who reside in the counties we serve.

Audubon Colorado, our state organization that has 9,000 members, and the Black Canyon Audubon Society appreciate the efforts of the CWVB Steam and Lake Protection Section and the Colorado Water Conversation Board to protect our streams and natural lakes.

Sincerely,

Martha Grewal

Martha Grewal
President
Black Canyon Audubon Society

TOWN OF NORWOOD

P.O. BOX 528
NORWOOD, CO 81423
(970) 327-4288
FAX: (970) 327-0451

November 19, 2009

Colorado Water Conservation Board
Attn: Linda Bassi
1313 Sherman Street, Room, 721
Denver, CO 80203

RE: Proposed In-stream Flow Appropriations in Lower San Miguel River.

Dear Colorado Water Conservation Board Members:

I would like to take this opportunity to thank April Montgomery and your staff , Linda Bassi and Jeff Baessler for holding the public meeting on November 5th, 2009, in Norwood, regarding the potential in-stream flow appropriation on the San Miguel River below Calamity Draw to the Dolores River and Tabaguache Creek tributaries.

Trustee Hudson and myself had the opportunity to attend the pre-meeting with numerous representatives of Farmers Water Development Company, Lilylands Ditch Company, Lone Cone Ditch Company, CC Ditch Company, Norwood Water Commission and several other entities, and we also attended the presentation by CWCB staff and found both meeting very informative.

At the regular meeting of the Norwood Board of Trustees on November 11, I gave a brief report on the November 5th meeting. It was the consensus of the Norwood Board of Trustees to strongly urge the CWCB to not approve the recommended in-stream flow at your January 2010 meeting. We respectfully request that the CWCB extend the timetable for public comment regarding the appropriation of in-stream flows in the San Miguel River from Calamity Draw to the Dolores River and Tabaquache Creek tributaries until your Board has had time to adequately consider the report that has been completed by Eric Bikis and other options such as building reservoirs in our area to release water to the San Miguel River when needed to protect the fish habitat. We also believe that the CWCB would benefit from more recent snowpack and weather pattern studies to reflect the rapidly changing climate. Changing climate patterns potentially have a detrimental effect to human populations as well as wildlife populations and these should be considered when establishing an appropriation for instream flows. We believe that your studies based on the 50 year average would greatly benefit from studies that more accurately reflect the very recent changes in weather patterns.

The Norwood Board of Trustees appreciates your time and effort in the consideration of this request. If you have any questions regarding this request please contact our Administrator, Patti Grafmyer at 970-327-4288 or norwoodparker@centurytel.net.

Sincerely,

Kerry A. Welch, Mayor
Town of Norwood

Cc: Norwood Water Commission

Agenda Item #10

MONTROSE COUNTY
COLORADO

Board of Directors
Jennifer Gimbel, Director
Colorado Water Conservation Board
1313 Sherman Street
Denver, Colorado 80203

13 November 2009

Dear Board Members and Ms. Gimbel:

We the Board of County Commissioners for Montrose County are aware that the Colorado Water Conservation Board (CWCB) at its meeting in November may be asked to advance and notice in-stream flow recommendations for the Lower San Miguel River to the final stage for CWCB consideration for appropriation at its January 2010 meeting. We realize that this is a preliminary action; however, we respectfully request that the CWCB delay or table such action for one year from this date to allow Montrose County in conjunction with San Miguel County, the water users in the basin and the CWCB staff to assess the basins water needs and to insure these needs are taken into account with the in-stream flow appropriation.

Montrose County has assessed the projected growth and water needs in Western Montrose County. This information along with studies by the CWCB included in SWSI, Colorado River Projections, and input from the Southwest Basin Roundtable will aid Montrose County in assessing its future water needs and how to protect those needs in the future. We feel that any in-stream flow recommendation considered by the CWCB should take these needs into account.

We realize that in-stream flow protection is also an important water use that deserves the protection afforded by a CWCB in-stream flow appropriation; however, it must be balanced with the other basin needs. By delaying or tabling the advancement of the Lower San Miguel recommendation for one year, we believe that all parties can arrive at this balance of needs. Should the CWCB go forward at this time with the in-stream flow approval and appropriation process, it would place Montrose County and other water users in the basin with the unpleasant task of contesting the in-stream flow recommendation. We feel that this would be a waste of resources of all concerned, including the CWCB, and that our efforts would be better spent in addressing the basin and in-stream flow needs prior to this formal process.

Please contact Commissioner David White or Assistant County Manager Ike Holland, if you have any questions or comments.

Sincerely,

Gary Ellis

Gary Ellis, Board of County Commissioners

THE SOUTHWESTERN WATER CONSERVATION DISTRICT
A Municipal District Organized Under State Law For Development And Conservation Of The Waters in the
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES
IN SOUTHWESTERN COLORADO

West Building – 841 East Second Avenue
DURANGO, COLORADO 81301
(970) 247-1302 – Fax (970)259-8423

November 5, 2009

Jennifer Gimbel, Director
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Colorado Water Conservation Board of Directors
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Lower San Miguel River Water Needs and Proposed ISF

Dear Ms. Gimbel and Board Members;

The Southwestern Water Conservation District (SWCD) has been engaged in discussions with interested government entities, planners, and water providers in the San Miguel River basin regarding their future requirements for water supplies. These discussions were part of a dialogue initiated by a request from the Southwestern Basin Roundtable to update IPP's in the SWSI reports, and the recent recommendation for an in-stream flow appropriation on the lower San Miguel River from Calamity Draw to the confluence with the Dolores River. The flows recommended by the Division of Wildlife and the Bureau of Land Management range from a low of 80 cfs during base flow periods to a high of 325 cfs during the spring runoff.

The SWCD acknowledges the possible need for a new appropriation on the lower end of the San Miguel River to assist in providing a sustainable population of fish species that are categorized as "species of concern", but the District also believes that a large in-stream flow this low in the basin and in the proximity of the state line would have a significant impact on the future consumptive use needs of this area. Representatives of SWCD have been meeting with elected officials in both San Miguel and Montrose Counties to assist them in identifying and quantifying their future water needs. It is the desire of all the parties to these discussions to continue this work, and to complete the assessment in a reasonable amount of time.

Therefore, the SWCD is requesting that the board members and staff of the Colorado Water Conservation Board (CWCB) delay an in-stream flow appropriation on the lower end of the San Miguel River until January of 2011, and that the CWCB not take formal action to advance and notice the in-stream flow appropriation at its November board meeting. If the CWCB moves forward with a new appropriation in 2010, it is anticipated that the SWCD as well as numerous water users and government entities in Montrose and San Miguel Counties will find it necessary to contest the appropriation and file opposition to the in-stream flow application with the water court. Given the current status of the State budget and the costs associated with lengthy litigation, this would not be a prudent expenditure of tax dollars for the state or for the district.

The Southwestern Water Conservation District appreciates your consideration regarding this situation, and we are committed to working with entities in Montrose and San Miguel Counties to address their future water needs in the basin over the next year. It is anticipated that this will assist in limiting opposition to a new in-stream flow filing by the CWCB on the lower end of the San Miguel River in 2011.

Sincerely,

John Porter
President
Southwestern Water Conservation District

Cc: SWCD Board
Montrose BOCC
San Miguel BOCC

Viehl, Rob

From: Bassi, Linda
Sent: Friday, June 06, 2008 8:49 AM
To: Viehl, Rob; Williams, Owen
Subject: FW: UMETCO water rights

-----Original Message-----
From: Breck A Richards [mailto:tripark@juno.com]
Sent: Thursday, June 05, 2008 10:55 AM
To: Bassi, Linda
Subject: Fw: UMETCO water rights

--------- Forwarded message ----------
From: Breck A Richards <Tripark@juno.com>
To: dan@durangowater.com
Date: Thu, 5 Jun 2008 10:54:01 -0600
Subject: UMETCO water rights

We are against any in-stream flow rights. In-stream flow is nothing more than a water grab.
The BLM is not concerned about the flannel mouth, the bluehead sucker or the roundtail
chub. They ARE concerned about stopping development. The State of Colorado,
through CWCB, has found a way by using "in-stream flow rights" to take back water
not in the interests of the stream, but for the value to its lower state water compacts.
It is an asset the State can sell and fulfill with. A junior water right is also the ability
to meddle with anything that goes on with the river. They can make calls that affect
other users such as the CC Ditch Co. and ranchers and farmers.

CWCB: What to do with Uravan water: Build a dam and use the water rights to
fill the dam. Hydro Power Plant - use the water as it was originally intended.
Do not allow the CWCB to use as an in-stream flow right.
Abandon the water and let others file on it. Do not give it to municipalities.
Sell it or lease it.

Shawn Mock
Nucla, CO

Viehl, Rob

From: Bassi, Linda
Sent: Friday, June 06, 2008 8:51 AM
To: Viehl, Rob; Williams, Owen
Subject: FW: Re-In-Stream Flow Umetco Water

-----Original Message-----
From: One [mailto:mtnnews@fone.net]
Sent: Wednesday, June 04, 2008 4:48 PM
To: Bassi, Linda
Subject: Re-In-Stream Flow Umetco Water

Linda Bassi,
Denver, CO
RE: In'Stream Flows at Tabequache Creek and the San Miguel River

Though the state was granted Umetco water rights under duress of clean-up hearing, I, Roger Culver, as a Colorado Cooperative Company water share holder in Nucla, Colorado know from speaking to Umetco representative the company water their water to go to West End Montrose County community use for immediate and future develop needs.

In your mandate regarding Umetco water shares to work closely with the area communities and cause no harm, I and all others here ask that you disregard the sucker hatchery proposal for the un-endangered Roundtail and other suckers. The taken water rights the state holds here by any name or aged decree for in-stream flow will cut into our already 100 percent used CCC system and reduce not only our current use but leave us without any possible development water needs.

We strongly advise that the state not create undue hardship on an already depressed region. I am against in-stream flow regarding the San Miguel River as it cannot sustain any calls in the latter months of the summer, particularly August and September.

In dealing with government agencies here, it is difficult to take time and comment on any projects. For decades, the citizens of these communities have been used to satisfy government study requirement, but our voice, as sometimes told by government agencies, will not be heard. These meeting are often formalities to provide public input without regarding it.

In-Stream flow proposed by state water use of its shares of the San Miguel River is 99 percent opposed here. Do you hear? It is opposed here on valid grounds that it will harm all communities immediately and in the future. Your study by Harris Engineering can tweak the facts and figures all it wants, but the fact is that the state's in- stream proposal will reduce need water shares to local communities and ranchers and cut off all opportunities for growth. In you promised close working relationship with locals, please be advised that we oppose in-stream flow for the San Miguel.

Roger Culver
Area Rancher
P.O. Box 9
Nucla, CO 81424
970-864-7425

Viehl, Rob

From: Bassi, Linda
Sent: Friday, June 06, 2008 8:49 AM
To: Viehl, Rob; Williams, Owen
Subject: FW: UMETCO water rights

-----Original Message-----
From: Breck A Richards [mailto:tripark@juno.com]
Sent: Thursday, June 05, 2008 10:44 AM
To: Bassi, Linda
Subject: Fw: UMETCO water rights

--------- Forwarded message ----------
From: Breck A Richards <Tripark@juno.com>
To: dan@durangowater.com
Date: Thu, 5 Jun 2008 10:42:36 -0600
Subject: UMETCO water rights

I believe dedicating these in-stream flows, in any amount, is an improper use of the water rights. This leads to a small group of powerful people holding sway over all the communities on the San Miguel River.

It's amazing that these fish, who are supposedly threatened, have survived
total stream dry-ups in the late 1800's and early 1900's, must now be protected with in-stream flow.

The best possible senario for these water rights, would be an abandonment of the decrees. The next, but much less favorable, would be to give the rights to the local communities of Nucla and Naturita. These communities could then construct a hydro power plant to generate much needed revenue.

Breck Richards
Nucla, CO