

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

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IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER  
DIVISION 4: SAN MIGUEL RIVER (confluence Calamity Draw to confluence Dolores  
River)

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NOTICE OF PARTY STATUS

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Western Resource Advocates (hereinafter "WRA"), by and through it undersigned counsel, submit the following Notice of Party Status regarding the Staff ISF Recommendation on the San Miguel River, Water Division No. 4. *See* Notice of Contested 2011 ISF Appropriations (May 26, 2010). This Notice of Party Status is submitted in a timely manner pursuant to Rule 5/ of the Rules Concerning Instream Flow and Natural Lake Level Program, 2 CCR 408-2 ("ISF Rules").

1. Identity of Party:

Western Resource Advocates  
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2. Identification of recommendations at issue:

SAN MIGUEL RIVER (confluence Calamity Draw to confluence Dolores River) CWCID ID: 09/4/A-009. Posted in Notice of Contested 2011 ISF Appropriations (May 26, 2010).

3. Statement of Reasons:

- a. Western Resource Advocates is a non-profit conservation organization dedicated to protecting the Interior West's land, air, and water. WRA is a long-time member of the Upper Colorado River Endangered Fish Recovery Program—a large, multi-stakeholder effort to recover four endangered fish species in the Upper Colorado River Basin. The Program has made substantial progress towards recovery of these species, including re-operation of Flaming Gorge Dam on the Green River, Coordinated Reservoir Operations for the 15-mile reach on the Colorado River, and the growing emphasis on control of predatory, non-native fishes on the Yampa River. WRA supports efforts to keep other native fish species from becoming listed. WRA has a long history of work to protect and improve flows for the natural environment and thus will add value to these proceedings.

4. Contested facts, to the extent known at this time:

- a. Whether the ISF Appropriation complies with C.R.S. § 37-92-102(3)(c) and ISF Rule 5i:
  - i. Whether there is a natural environment that can be preserved to a reasonable degree by this ISF Appropriation, if granted.
  - ii. Whether the natural environment will be preserved to a reasonable degree by the water available for this ISF Appropriation.
  - iii. Whether such environment can exist without material injury to water rights.
- b. Whether this ISF Appropriation is consistent with present uses or exchanges of water being made by other water users pursuant to appropriation practices in existence on the date of such appropriation, whether or not previously confirmed by court order or decree, within the meaning of C.R.S. § 37-92-102(3)(b).
- c. Whether this ISF Appropriation is consistent with the beneficial use of the water of the people of the State of Colorado under law and interstate compact, within the meaning of C.R.S. § 37-92-102(3).
- d. Any contested fact(s) raised by other Parties to this Contested ISF Appropriation.

- e. WRA reserves the right to identify other contested facts prior to or during a hearing on this Contested ISF Appropriation.

5. Matters that should be decided, to the extent known at this time:

- a. There is a natural environment that can be preserved to a reasonable degree by this ISF Appropriation, if granted.
- b. The natural environment will be preserved to a reasonable degree by the water available for this ISF Appropriation.
- c. Such environment can exist without material injury to water rights.
- d. This ISF Appropriation is consistent with present uses or exchanges of water being made by other water users pursuant to appropriation practices in existence on the date of such appropriation, whether or not previously confirmed by court order or decree.
- e. This ISF Appropriation is consistent with the beneficial use of the water of the people of the State of Colorado under law and interstate compact.
- f. Pending conditional water rights applications are not relevant under C.R.S. § 37-92-102(3) or Rule 5i of the ISF Rules.
- g. Potential future changes of existing water rights are not relevant under C.R.S. § 37-92-102(3) or Rule 5i of the ISF Rules.
- h. Any contested matter(s) raised by other Parties to this Contested ISF Appropriation.
- i. WRA reserves the right to identify other matters that should be decided prior to or during a hearing on this Contested ISF Appropriation.

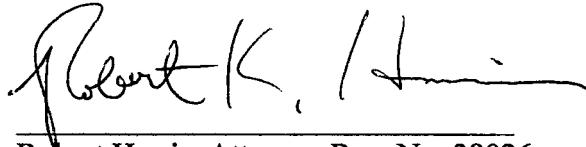
6. Data upon which WRA will rely, to the extent known at this time:

- a. State and federal agency reports, memos, and letters pertaining to the subject ISF recommendations, including all attachments and appendices. Other state and federal agency data may include, but is not limited to, stream gage records.
- b. Expert analysis of hydrological data. This analysis will be compared against special status fish habitat in the San Miguel River and the water flow needs of these special status fish species.

- c. All documents, data, and testimony offered by other Parties to this Contested ISF Appropriation.
- d. WRA reserves the right to identify and present additional data, documents, and testimony upon which it may rely as new information becomes available.

Wherefore, WRA hereby requests that the Board grant party status to WRA in this Contested ISF Appropriation hearing under Rule 51 of the ISF Rules.

Respectfully submitted this 22nd day of April 2011.



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