

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

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

NOTICE OF PARTY STATUS

The Wilderness Society (hereinafter “TWS”), 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:

The Wilderness Society
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Denver, CO 80202

Address for Service of Pleadings:

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2. Identification of recommendations at issue:

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

3. Statement of Reasons:

- a. The Wilderness Society is a national conservation organization working specifically for the enduring protection of select national public lands and the natural values found there. The Wilderness Society was instrumental in securing passage of The Wilderness Act of 1964, and it has been engaged in every major preservation effort affecting national lands since the organization's founding in 1935. The Wilderness Society's extensive participation in matters affecting Colorado's water, streams, and related natural values is coordinated through our Central Rockies Regional Offices, in Denver and Glenwood Springs.

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. TWS 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. TWS 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 TWS 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. TWS reserves the right to identify and present additional data, documents, and testimony upon which it may rely as new information becomes available.

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

Respectfully submitted this 27nd day of April 2011.

/s Robert K. Harris

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Duly signed original on file with WRA