

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

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**Prehearing Statement of Sheep Mountain Alliance**

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IN THE MATTER OF STAFF'S RECOMMENDATIONS FOR AN INSTREAM FLOW  
APPROPRIATION ON THE SAN MIGUEL RIVER BELOW CALAMITY DRAW, WATER  
DIVISION 4

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Pursuant to Rule 5n(2) of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("ISF Rules"), Sheep Mountain Alliance ("SMA") hereby submits its prehearing statement in support of the Colorado Water Conservation Board ("CWCB") staff's recommendations for an instream flow appropriation on the San Miguel River between the confluence with Calamity Draw and the confluence with the Dolores River (CWCB ID: 09/4/A-009) (the "ISF"). SMA supports the appropriation on the reach in the location, timing, and amounts adopted by the CWCB at its January 2011 regularly scheduled board meeting. The CWCB adopted the locations, timing, and amount set forth in the CWCB staff recommendation report made available to the CWCB and the public at the January 2011 CWCB regularly scheduled board meeting (this recommendation is available for review on the CWCB's website at [www.cwcb.state.co.us](http://www.cwcb.state.co.us)).

**A. FACTUAL CLAIMS**

1. There is a natural environment that can be preserved on the subject reach of the San Miguel River. The finding of a natural environment is based upon the fish surveys conducted the Colorado Division of Wildlife, riparian inventories conducted by Colorado Natural Heritage Program, and aquatic macroinvertebrate surveys conducted by the Bureau of Land Management (the "BLM").
2. The instream flow location, amount, and timing originally recommended by the CWCB staff at the January 2011 board meeting:
  - a) is based upon an accurate PHABSIM (Physical Habitat Simulation) analysis, which is a standard scientific methodology for identifying the amount of the physical habitat available for fish at various flow rates in a specified stream channel;
  - b) is based upon a set of habitat suitability curves that are appropriate for the fish species and the life stages to be protected;
  - c) is based upon a set of habitat suitability curves that are appropriate for the San Miguel River Stream channel;
  - d) is based upon a reasonable selection of protective flow rates taken from the weighted usable area curves produced by PHABSIM analysis;
  - e) is based upon an accurate application of the R2Cross hydraulic modeling procedures;

- f) is based upon an accurate application of hydraulic criteria for instream flow determinations utilizing the R2Cross methodology; and
- g) is required to preserve the natural environment to a reasonable degree.

3. The natural environment on the subject reach of the San Miguel River:

- a) includes native and introduces fishes, aquatic macroinvertebrates, and riparian communities;
- b) can be preserved with an instream flow appropriation that is based upon the flow needs of flannelmouth sucker and bluehead sucker, because those species are indicator species for other elements of the natural environment that rely upon a hydrograph with a natural shape;
- c) will be preserved to a reasonable degree with the proposed ISF water right; and
- d) can exist without material injury to existing water rights, including conditional surface water rights and conditional storage rights.

4. The water availability analysis conducted by the CWCB in support of the January 2011 instream flow appropriation:

- a) is based upon scientifically accepted hydrology analysis procedures;
- b) relies upon data from multiple historic gaging sites, all of which demonstrate that sufficient water is available for the proposed appropriation; and
- c) reflects an amount of water that is available for appropriation as an ISF right, utilizing standard procedures employed by the CWCB to evaluate a range of hydrologic year types.

5. SMA supports the CWCB staff recommendations as set forth in the January 2011 Staff Report and Recommendation on the subject reach of the San Miguel River.

6. SMA hereby adopts the factual claims set forth in CWCB staff's Prehearing Statement.

**B. LEGAL CLAIMS**

1. SMA is a party to these proceedings pursuant to Rule 5i(5) of the ISF Rules.

2. Because instream flow water rights are nonconsumptive and do not divert water from the stream, the CWCB can appropriate an instream flow water right that is based upon the flow of water that will be diverted downstream by a senior water right.

3. Even though the proposed ISF will be junior to existing water rights on the stream system, the CWCB can make appropriations based on water availability at the time of the proposed appropriation, without subtracting flow rates or volumes that have been adjudicated to conditional or presently unexercised water rights.

4. The proposed instream flow water right will not deprive the people of the State of Colorado of their right to develop the volume of water allocated to the State of Colorado under the

Colorado River Compact. The proposed instream flow water right leaves substantial water volumes available for new junior water rights and future water development.

5. In determining the amount of water available for an instream flow appropriation, the CWCB is not limited to the amount of water available during drought years. Instead, the CWCB may consider the amount of water available in a range of hydrologic conditions.

6. The CWCB has the discretion to determine amount and timing of water necessary to preserve the natural environment to a reasonable degree.

7. The original CWCB staff ISF recommendation for the subject reach of the San Miguel River meets all of the substantive and procedural requirements outlined in the ISF Rules.

8. The CWCB's appropriation of an instream flow water right on the subject reach of the San Miguel River would further the express intent of C.R.S. § 37-92-103(3) to "correlate the activities of mankind with some reasonable preservation of the natural environment."

9. SMA hereby adopts the legal claims set forth in the BLM's Prehearing Statement and in the CWCB staff's Prehearing Statement.

### **C. EXHIBITS TO BE INTRODUCED AT HEARING**

1. January 2011, Staff Analysis and Recommendation on the subject reach of the San Miguel River. This report, along with its appendices, contains maps of the proposed reach, proposed ISF amounts and timing, and water availability calculations. This report, and supporting appendices, are available for review on the CWCB's website at <http://www.cwcb.state.co.us>, and is included in the CWCB's Prehearing Statement. In the hearing, SMA will refer to this report and its appendices as **SMA Exhibit 1**.

2. Range-Wide Conservation Agreement and Strategy for Roundtail Chub, Bluehead Sucker, and Flannelmouth Sucker, September 2006. This document appears as Appendix A to the CWCB Staff Analysis and Recommendation on the subject reach of the San Miguel and is available for review on the CWCB website at: <http://cwcbweblink.state.co.us/weblink/electronicfile.aspx?docid=146683&searchid=55a060a6-154b-4dc0-a474-0377a6c0fcde&dbid=0>.

3. Colorado's Water Supply Future, Colorado Water Conservation Board, Southwest Basin Non-consumptive Needs Assessment Report, March 2011. This document is available in its entirety for review on the CWCB website at: <http://cwcb.state.co.us/water-management/basin-roundtables/Documents/Southwest/SWBasinNeedsAssessmentReport.pdf>. SMA will refer to this report as **SMA Exhibit 2**.

4. Copies of stakeholder letters and petitions in support of the ISF, which are available for review on the CWCB website at: <http://cwcbweblink.state.co.us/WebLink/ElectronicFile.aspx?docid=146694&searchid=629a39e1-2f6d-4e9a-8948-4de6fd810d3c&dbid=0>. Additional petitions and letters may be collected prior to the

Board meeting, which will be circulated to the Board and all parties prior to the hearing. SMA will refer to all letters and petitions in support of the ISF as **SMA Exhibit 3**.

5. Portions of Statewide Water Supply Initiative 2010 Report, including but not limited to Sections 2 and 8. This document is available in its entirety for review on the CWCB website at: <http://cwcb.state.co.us/water-management/water-supply-planning/pages/swsi2010.aspx>. SMA will refer to this document as **SMA Exhibit 4**.

6. Portions of the Final Wild and Scenic River Eligibility Report for the BLM Uncompahgre Planning Area dated June 2010. This document is available in its entirety for review at: [http://www.blm.gov/pgdata/etc/medialib/blm/co/field\\_offices/uncompahgre\\_field/rmp/rmp\\_do\\_cs.Par.16348.File.dat/Final%20WSR%20Eligibility%20Report%20Final%20Web%20071210.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/co/field_offices/uncompahgre_field/rmp/rmp_do_cs.Par.16348.File.dat/Final%20WSR%20Eligibility%20Report%20Final%20Web%20071210.pdf). SMA will refer to this report as **SMA Exhibit 5**.

7. Portions of the BLM Colorado Southwest Resource Advisory Council WILD AND SCENIC RIVER SUITABILITY RECOMMENDATIONS for the San Miguel and Dolores Rivers and Tributaries. This document is available in its entirety for review at: [http://www.blm.gov/pgdata/etc/medialib/blm/co/field\\_offices/uncompahgre\\_field/rmp/wsr\\_do\\_cs.Par.31074.File.dat/2011-0225%20WSR%20Dolores%20San%20Miguel%20Segment%20Analysis%20RAC%20Recommendation.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/co/field_offices/uncompahgre_field/rmp/wsr_do_cs.Par.31074.File.dat/2011-0225%20WSR%20Dolores%20San%20Miguel%20Segment%20Analysis%20RAC%20Recommendation.pdf). SMA will refer to this document as **SMA Exhibit 6**.

8. Final List of Southwest Basins Roundtable Nonconsumptive IPPS. SMA will refer to this list as **SMA Exhibit 7**.

9. Final List of Southwest Basin Roundtables Consumptive IPPs. SMA will refer to this list as **SMA Exhibit 8**.

10. SMA may introduce demonstrative, rebuttal, or other exhibits as allowed by the CWCB or agreed upon by the parties.

11. SMA may rely upon exhibits introduced or disclosed by any other party to this hearing.

#### **D. LEGAL MEMORANDUM**

SMA's legal memorandum is attached to this prehearing statement as Exhibit A and is incorporated by this reference.

Respectfully submitted this 13<sup>th</sup> day of July, 2011.

**RUSSELL & PIETERSE, LLC**



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**ATTORNEYS FOR SHEEP MOUNTAIN ALLIANCE**

**CERTIFICATE OF SERVICE**

I hereby certify that I have duly served the copies of the foregoing PREHEARING STATEMENT upon all parties herein by Federal Express, email or depositing copies of the same in the U.S. mail, postage prepaid this 13<sup>th</sup> day of July, 2011 addressed as follows:

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## Sheep Mountain Alliance Prehearing Statement Legal Memorandum

This legal memorandum is in support of the ISF appropriation on the San Miguel River.

### I. INTRODUCTION AND BACKGROUND

The Colorado Water Conservation Board (“Board”) is a unique entity charged with preserving the natural environment to a reasonable degree for the people of the State of Colorado.<sup>1</sup> The Board initiates water appropriations in fulfillment of this unique statutory responsibility.<sup>2</sup>

In charging the Board with this authority, the legislature clearly envisioned that the instream flow program would reasonably obtain its goal of preserving the environment by ensuring that certain stream reaches would not be further depleted.<sup>3</sup> The primary value of an instream flow right is its ability to preserve the stream conditions existing at the time of its appropriation.<sup>4</sup> It protects the flow remaining in the river after decreed senior rights are satisfied.

All of the parties contesting the proposed instream flow appropriation (“ISF”) hold, or have filed on, water rights senior to the ISF adequate for their current *and future* needs. Consequently, the ISF – like any other junior water right – will not affect them to the extent they put their conditional water rights to beneficial use.

In order to encourage other entities to participate in Colorado’s instream flow program, the legislature directed the Board to request instream flow recommendations from other state and federal agencies. C.R.S. § 37-92-102(3). This ISF comes at the recommendation of the Colorado Department of Wildlife and the Bureau of Land Management and is based upon *10 years of data collection* on the San Miguel River by those agencies. The agencies have identified populations of fish species that are recognized as species of special concern by the state (roundtail chub) or are considered sensitive species by the BLM (roundtail chub, flannelmouth sucker and bluehead sucker). Sensitive species are declining so rapidly that federal listing may become necessary.

A significant purpose of the ISF is to implement the five-state conservation agreement regarding the management of these species.<sup>5</sup> If successful, the ISF could curtail the need for federal listing of the species, which would constitute a direct, significant benefit to the public, particularly members of the public who live and work in the San Miguel River Basin.

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<sup>1</sup> *Aspen Wilderness Workshop, Inc. v. Colo. Water Conservation Bd.*, 901 P.2d 1251, 1256 (Colo. 1995).

<sup>2</sup> *Id.* at 1259.

<sup>3</sup> *Colo. Water Conservation Bd. v. City of Central*, 125 P.3d 424, 439 (Colo. 2005).

<sup>4</sup> *Id.*

<sup>5</sup> *See generally* Utah Department of Natural Resources, Rangewide Conservation Agreement for the Roundtail Chub, Bluehead Sucker, and Flannelmouth Sucker (2006) (implementing conservation measures for the fish species).

The ISF was officially recommended in 2008. Following the Board's announcement of a potential 2010 appropriation of the ISF, Board staff met with the San Miguel County Commissioners at a public meeting in December 2009. At that meeting, the commissioners requested a one-year delay in the appropriation to allow water users time to file water rights applications for any present or anticipated future needs ahead of the instream flow appropriation. Many water users did file applications in 2010: the December 2010 resume was 124 pages long and included numerous filings on the San Miguel River, including applications by Montrose County, the Norwood Water Commission and the Lone Cone Ditch and Reservoir Company.

Nevertheless, the Board of County Commissioners of Montrose County ("Montrose County") and Farmer's Water Development Company ("Farmers") contested the proposed ISF. In addition, San Miguel Water Conservancy District ("SMWCD"), Southwestern Water Conservation District ("Southwest"), Norwood Water Commission ("NWC") and Lone Cone Ditch and Reservoir Company ("Lone Cone") filed for party status in opposition to the ISF.

The opponents' legal arguments against the ISF, as set forth in filings in this matter or by the parties' previous statements at Board meetings, can be summarized as follows:

1. The ISF will prevent future consumptive-use development in the basin; the Board should not appropriate the ISF unless there is either a "carve-out" for such future development or an agreement to subordinate the ISF to future development.
2. By preventing future consumptive use development, the ISF could deprive the people of the State of Colorado of the beneficial use of those waters available by law or interstate compact.
3. The ISF will deny water users the flexibility to change their water rights "as allowed by Colorado law".

These arguments are uniformly without basis.

## **II. FUTURE CONSUMPTIVE USE DEVELOPMENT**

Montrose County filed six water rights applications for additional water for the west end of the county (the "West End") seeking 6400 acre-feet of additional water for future uses in the West End, which is enough water for approximately an additional 26,000 people. There are three towns in the West End on the San Miguel River: Naturita (population 687); Nucla (population 766); and Redvale (population: 381).<sup>6</sup> The unincorporated parts of the West End

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<sup>6</sup> City of Montrose, Our Community, Demographics, <http://montrose.org/index.aspx?nid=220> (last visited July 12, 2011); Market Insights, Redvale Colorado Information, [marketinsights.com/city/Redvale-CO.html](http://marketinsights.com/city/Redvale-CO.html) (last visited July 12, 2011). In a study prepared for Montrose County, Economic & Planning Systems, Inc. calculated similar population estimates. Economic & Planning Systems, Inc., Montrose County Population Forecast 2010–2060, 48, Table B21 (2011).



are widely dispersed with very small populations and little commercial or industrial development.

The 2010 list of Identified Projects and Processes for the West End, incorporated into SWSI 2010, shows no gap for anticipated 2050 growth for Nucla and Naturita, and a total estimated gap of 135 acre-feet for the portion of the West End not covered by a water system.

Montrose County's appropriations clearly provide adequate water for growth in the West End through 2050 and beyond. Because the appropriations are senior to the ISF, Montrose County cannot argue that the ISF will prevent future development in the West End, or that it needs some form of subordination for future uses. Future growth in Montrose County will not be harmed by the ISF.

Similarly, NWC and Lone Cone filed applications for conditional water rights in December 2010 for all of their anticipated future growth. NWC serves the Town of Norwood and rural portions of San Miguel and Montrose Counties. Based upon a recent water needs assessment prepared by Wright Water Engineers, NWC filed two water rights applications in December 2010 to meet their 2060 needs. One application is for five storage rights totaling 16,305 acre-feet. The other, a joint application with Lone Cone, is for an additional 4,000 acre-feet of storage. These water rights will be senior to the ISF and are more than adequate for their anticipated growth. Consequently, the ISF will not affect their ability to provide for anticipated future growth.

### **III. BENEFICIAL USE OF WATERS AVAILABLE BY LAW OR INTERSTATE COMPACT**

Southwest, NWC and Lone Cone claim that the ISF could deprive the people of the state of the beneficial use of water available by law or by interstate compact by precluding the development of consumptive use water rights. These parties appear to argue that, in correlating the activities of mankind with some reasonable preservation of the environment, the *Board* must ensure the development of sufficient water for the next 50 years for the growing populations of Montrose and San Miguel Counties. That argument is nonsensical. The statutory language is clearly setting out the purpose of the legislative establishment of the instream flow program: to provide some reasonable preservation of the environment. The state constitution and statutes always have protected and provided water for "the activities of mankind". What did not exist prior to the adoption of the instream flow program in 1973 was a means to preserve the environment to *any* degree.

More puzzling still is these parties' suggestion that it is the Board's duty to ensure the development of water for the people of San Miguel and Montrose Counties. That job is clearly up to the water providers in the counties, and those providers have, in fact, filed water rights applications to provide water for all foreseeable development.

No court case defines what is meant by the prohibition in the statute against depriving the people of the state of the beneficial use of waters available by law and interstate compact. In

fact, the Supreme Court has admitted to being puzzled regarding the purpose of this language.<sup>7</sup> The Court, however, cited the water court's ruling in that case with approval:

There is no evidence that these appropriations resulted in any people of the State of Colorado being deprived of the beneficial use of water. Until such time as a person is in fact deprived of the beneficial use of available water because of these appropriations the alleged harm is purely speculative and must be rejected.<sup>8</sup>

Here, the parties have made no specific or valid claim that the ISF would result in people of the State of Colorado being deprived of the beneficial use of water. Therefore, any such claim is speculative and must be rejected by the Board.

#### **IV. CHANGES TO WATER RIGHTS**

Farmers and SMWCD both argue that the ISF will deny water users the right to change their water rights in the future. However, under C.R.S. § 37-92-102(3) and Rule 5i of ISF Rules, potential future changes of existing water rights are not relevant to the Board's determination whether to initiate an instream flow appropriation.

Moreover, the ISF will impose no greater or different burden on water users wishing to change their rights in the future. Changes are subject to a non-injury standard with respect to other water rights, whether those rights are for instream flows or other beneficial uses.<sup>9</sup>

#### **V. PUBLIC SUPPORT FOR THE ISF**

##### **A. Southwest Basins Roundtable.**

Although the proposal for the instream flow was initiated by CDOW and the BLM to protect the environment for the sensitive fish species, there is strong and broad support in the basin for the ISF.<sup>10</sup>

The Southwest Basins Roundtable, pursuant to HB 05-1177, recently completed an extensive public process to determine its nonconsumptive water needs. This process included four meetings around the basin held in early 2010, including a very well-attended meeting in the San Miguel River Basin. The roundtable found that nearly the entire length of the San Miguel River – one of only two major undammed rivers in the state – had nonconsumptive

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<sup>7</sup> *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 575 (Colo. 1979)

<sup>8</sup> *Id.*

<sup>9</sup> C.R.S. § 37-92-305(3)(b).

<sup>10</sup> See, e.g., Copies of stakeholder letters and petitions in support of the ISF, which are available on the CWCB website:  
<http://cwcbweblink.state.co.us/WebLink/ElectronicFile.aspx?docid=146694&searchid=629a39e1-2f6d-4e9a-8948-4de6fd810d3c&dbid=0>.

values and attributes worthy of protection. The ISF segment of the river was identified as having between two and six nonconsumptive attributes.<sup>11</sup>

In addition, the nonconsumptive list of identified projects and processes (“IPPs”) approved by the roundtable expressly includes the ISF to protect the fish species. The nonconsumptive IPPs identified by the basin were subject to a much greater level of scrutiny than the consumptive IPPs and were the direct result of the public process to determine the basin’s nonconsumptive water needs.

Other nonconsumptive attributes important to the basin include various types of recreation dependent upon preservation of the natural environment. An instream flow is the only means to protect these nonconsumptive attributes and values. While not the focus of the current proceeding, it is important to recognize the Board’s exclusive role in protecting the public’s right to instream flows and the economic benefits that flow to communities dependent upon a flowing river and the natural environment. All of the opposers in this matter have an adequate means under Colorado water law to obtain and protect water for their consumptive uses. In contrast, the public must rely on this Board to obtain and protect water for their benefit and use.

#### B. Wild and Scenic Process

In the last year, the BLM Uncompahgre Field Office, as part of its Resource Management Plan, analyzed the suitability of various segments of the San Miguel River for inclusion in the National Wild and Scenic Rivers System. The BLM created a broad public process under the Southwest Resource Advisory Council (the “RAC”), a citizens’ advisory board, to solicit and incorporate input on suitability. The RAC recommended inclusion of the ISF segment based in part on exemplary populations of the three sensitive fish species, as well as exceptional recreation opportunities and vegetation of outstanding significance, including globally imperiled vegetation. Protecting the environment through the ISF appropriation will also protect these significant natural values.

#### C. SWSI 2010 Recommendations

SWSI 2010 recognizes that one of the important factors in the state’s growth is quality of life. New residents and businesses are attracted to Colorado because of the natural environment and wide array of recreational opportunities, many of which are water-based or have water as an integral part of the experience (such as camping or wildlife viewing).<sup>12</sup> In addition, recreation and the natural environment support tourism, which is a major economic driver in the San Miguel River Basin.

SWSI 2010 recommends meeting the state’s nonconsumptive needs by working with stakeholders to:

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<sup>11</sup> Colorado Water Conservation Board, Colorado’s Water Supply Future, Southwest Basin Needs Assessment Report, § 2, § 8, fig. 2-9 (2010).

<sup>12</sup> Statewide Water Supply Initiative 2010 Report, §2.1.

- Promote recovery of endangered, threatened and imperiled species in a manner that allows the state to fully utilize its compact and decreed entitlements.
- Protect or enhance environmental and recreational values that benefit local and statewide economies.
- *Support the implementation of projects and methods to meet the state's nonconsumptive water needs.*

The proposed ISF fulfills these recommendations by protecting sensitive fish species to avoid federal listing; protecting the environmental and recreational values upon which the basin depends; and implementing a project identified by the Southwest Basins Roundtable to meet its nonconsumptive water needs.

## **VI. CONCLUSION**

We urge this Board to exercise its unique authority to make the ISF appropriation proposed by CDOW, the BLM and the Board staff. The opposers in this matter have obtained more than adequate water rights to protect their growth and development of consumptive uses. The natural environment, including adequate instream flows, are a critical part of San Miguel River Basin's economy. In addition, a federal listing of the sensitive fish species will negatively affect the basin's ability to grow and develop in the future. Only the Board can protect these critical flows, help to avoid federal listing and protect the basin's tourism economy.

# SMA EXHIBIT 7

|          |               |                                     |  |   |   |  |   |   |
|----------|---------------|-------------------------------------|--|---|---|--|---|---|
| 14080101 | Archuleta     | San Juan                            | Watershed of the West Fork of the San Juan River   | Watershed values are defined by the collaborative workgroup and include the outstandingly remarkable value of geology, scenery and wildlife.                  | River Protection Workgroup leading local process to involve the public in protecting natural values while allowing water development to continue.   |  | SWWCD, SJCA, TU, TWS, SUIT, CDWR, CWCB, SJPL, Private landowners and citizens   | River Protection Workgroup                  |
| 14080101 | Western Slope | San Juan/ Colorado                  | San Juan Basin Recovery Implementation Program   | Colorado Pikeminnow, Razorback Sucker (Federally listed endangered species under the ESA)   | Federally listed fish species under the ESA - project ongoing since 1988 in Upper Co River Basin (San Juan also??)  | Federal program affecting water management throughout Upper Co and San Juan River Basins; both basins operated under Programmatic Biological Opinion (PBO) allowing depletions under a cumulative cap w/out individual consultation on each project. San Juan program extended through 2023. |   | DG (CDOW)                                   |
| 14080101 | Western Slope | San Juan/ Colorado                  | warm water streams w/in San Juan/ Co River drainages   | Roundtail Chub, Flannelmouth Sucker, Bluehead Sucker are sensitive species (CDOW); and species of concern (BLM)   | 6-State Range-Wide Conservation Agreement (NM, WY, UT, NV, AZ, CO) to expedite conservation measures to three native warm water fish that occupy lower reaches of all the San Juan/ Dolores/ San Miguel drainages. BOR, BLM, USFS also signatories to this agreement. | This Conservation Agreement signed in 2004 initiated formal inter-state consultation and cooperation to conserve these species. CO still drafting strategy document to coordinate implementation of conservation measures.   | CO, AZ, NM, UT, NV, WY; BOR, BLM, USFS  | DG (CDOW)                                   |
| 14030003 | Montrose      | San Miguel                          | Between Calamity Draw and Dolores Confluence (17.24 miles)                                       | Roundtail Chub, Flannelmouth Sucker, Bluehead Sucker are sensitive species (CDOW); and species of concern (BLM)   | In Stream Flow (ISF): 325 cfs: (4/15-6/14), 170 cfs: (6/15-731), 115cfs: (8/1-8/31), 80cfs: (9/1-2-29), 115cfs: (3/1-4/14)  | CWCB declared intent to appropriate 1/2011. Montrose County has provided additional information on flow/ habitat relationships that is being reviewed by CWCB staff.   | CWCB, BLM, CDOW, Montrose County  | April Montgomer, 2011 CWCB Board Member     |
| 14080101 | Archuleta     | Vallecito                           | Vallecito Creek headwaters to USFS boundary  | Non-consumptive and consumptive values  | River Protection Workgroup leading local process to involve the public in protecting natural values while allowing water development to continue.   |  | SWWCD, SJCA, TU, TWS, SUIT, CDWR, CWCB Private landowners and citizens  | Ann Oliver, RPW Steering Committee Member   |
| 14080101 | Hinsdale      | Vallecito                           | Vallecito Creek headwaters to USFS boundary  | Non-consumptive and consumptive values  | River Protection Workgroup leading local process to involve the public in protecting natural values while allowing water development to continue.   |  | SWWCD, SJCA, TU, TWS, SUIT, CDWR, CWCB Private landowners and citizens  | Ann Oliver, RPW Steering Committee Member   |
| 14080101 | La Plata      | Vallecito                           | Vallecito Creek watershed - headwaters to USFS boundary  | Watershed values are defined by the collaborative workgroup and include the outstandingly remarkable values of scenery and recreation                         | River Protection Workgroup leading local process to involve the public in protecting natural values while allowing water development to continue.   |  | SWWCD, SJCA, TU, TWS, SUIT, CDWR, CWCB, SJPL, Private landowners and citizens   | River Protection Workgroup                  |
| 14080101 | San Juan      | Vallecito                           | Vallecito Creek watershed - headwaters to USFS boundary  | Watershed values are defined by the collaborative workgroup and include the outstandingly remarkable values of scenery and recreation                         | River Protection Workgroup leading local process to involve the public in protecting natural values while allowing water development to continue.   |  | SWWCD, SJCA, TU, TWS, SUIT, CDWR, CWCB, SJPL, Private landowners and citizens   | River Protection Workgroup                  |
| 14030003 | Montrose      | San Miguel                          | Between Calamity Draw and Dolores Confluence (17.24 miles)                                       | Roundtail Chub, Flannelmouth Sucker, Bluehead Sucker are sensitive species (CDOW); and species of concern (BLM)   | In Stream Flow (ISF): 325 cfs: (4/15-6/14), 170 cfs: (6/15-731), 115cfs: (8/1-8/31), 80cfs: (9/1-2-29), 115cfs: (3/1-4/14)  | CWCB declared intent to appropriate 1/2011. Montrose County has provided additional information on flow/ habitat relationships that is being reviewed by CWCB staff.   | CWCB, BLM, CDOW, Montrose County  | April Montgomery, CWCB                      |
| 1403003  | Montrose      | San Miguel                          | Tabeguache Creek (Confluence with N. Frk Tabeg. Crk to confluence with 47 mile Crk) (3.66 miles) | Supports self sustaining fish populations (speckled dace, rainbow trout, mottled sculpin, blue head sucker. Also diverse riparian habitat                     | In Stream Flow: 3.5 cfs (4/1 - 6/30), 2.0 cfs (7/1 - 10/31), 1.6 cfs (11/1 - 3/31)  | CWCB declared intent to appropriate 1/2011. There has been no opposition to date.  | CWCB, BLM, CDOW, Montrose County  | April Montgomery, CWCB                      |
| 1403003  | Montrose      | San Miguel                          | Red Canyon Creek   | Supports self sustaining populations of native Co River Cutthroat trout and mottled sculpin.  | In Stream Flows: 1.2 cfs (4/1 - 6/30), 25 cfs 7/1 - 10/31)  | CWCB declared intent to appropriate 1/2011. There has been no opposition to date.  | CWCB, BLM, CDOW, Montrose County  | April Montgomery, CWCB                      |
| 1403003  | Montrose      | San Miguel at CCC-Ditch             | San Miguel at CCC-Ditch  | Provide fish passage at CCC-ditch diversion   | Construct Fish Ladder that abuts CCC-ditch, add electronic gauge to assist in diversion   | no additional water associated with this project   | CCC-Ditch, CWT, BLM, CDOW, TNC, SWCD, CWCB, Telluride Foundation  | Peter Mueller, The Nature Conservancy (TNC) |
| 1403003  | Montrose      | San Miguel below Naturita           | San Miguel, Calamity Creek   | Naturita and Nucia are in the process of identifying how to meet new water quality standards for sewer discharge; Naturita must meet standards by summer 2011 | Identify best means of improving water quality to meet State standards  |  | Towns of Nucia and Naturita   | Peter Mueller (TNC), George Glasier         |
| 1403003  | Montrose      | San Miguel, Nucia and Naturita area | CCC-Ditch to Calamity Creek  | Identify willing lessor for 3 in 10 year paid lease of water  | Identify willing lessor for 3 in 10 year paid lease of water  | unknown at this time   | CDOW, TNC, CWT, and others as needed  | Peter Mueller (TNC)                         |
| 1403003  | San Miguel    | Howards Fork                        | Howards Fork above Ophir; Carbenaro Mine Reclamation   | Mine Tailings Reclamation   | USFS initiating tailings removal from riparian area east of Ophir   | no water needed  | USFS, SMWC, Town of Ophir, TLR, San Miguel Conservation Foundation, GOCO  | Peter Mueller (TNC), Pat Willis             |
| 1403003  | San Miguel    | Howards Fork                        | Carbenaro Mine Audit Reclamation   | Reduce or Treat the contaminated water- heavy metals, principal contributor to Howards Fork   | Investigate what options exist to mitigate heavy metal loading  | no water needed  | EPA, Division of Water Safety; CDPHE, DRMS, private landowner   | Peter Mueller (TNC), Pat Willis             |
| 1403003  | San Miguel    | Howards Fork                        | Caribou Mine Tailings and Audit  | Improve water quality   | Investigate how best to reclaim   | no water needed  | USFS, private land owner, DRMS, EPA, CDPHE et al  | Peter Mueller (TNC), Pat Willis             |
| 1403003  | San Miguel    | Fall River                          | Fall River and tributaries above Woods Lake  | Colorado River Cutthroat Trout (State Sensitive Species)  | The CDOW w/ partners is continuing implementation of a cutthroat refugio concept at Woods Lake, and has completed 2 (of 3) infrastructure improvement projects designed to isolate this fishery from exposure to non-native trout (mainly brook trout)                | CDOW has obtained internal funding and is working in partnership w/ the Hughes Ditch Co to modify the diversion structure to facilitate cutthroat isolation and allow diversion of existing water rights.  | CDOW, USFS, Hughes Ditch Co, San Miguel County  | DG (CDOW)                                   |
| 1403003  | San Miguel    | San Miguel                          | Telluride to Society Turn  | Valley Floor restoration of historic river channel  | Riparian habitat restoration. Flows to protect wetlands.  | Existing flows may be sufficient   | Town of Telluride   | Telluride, Lance McDonald                   |
| 14080104 | La Plata      | Animas                              | Animas River from ? To ?   | Recreational In-Channel Diversion   | Provide a boating park that allows for rafting, kayaking, tubing and other water sports   | Water needs depend on the time of year. Water rights secured in 2009. Construction of the anchored rock facility awaits funding.   | City of Durango, La Plata County, Animas River Task Force   | City of Durango                             |
| 14080104 | La Plata      | Florida                             | Upper Florida  | Drinking Water Protection   | Source Water Protection   |  | City of Durango, Edgemont Ranch Metro District, Forest Groves Home Owners, El Rancho Florida Homeowners, Durango-La Plata Regional Airport, La Plata County, SJPL, CRWA, COWGCC | Eddy Balch, CRWA                            |
| 14080104 | La Plata      | Animas                              | Lake Nighthorse  | Recreational Use of Lake Nighthorse   | Provide boating and fishing and swimming opportunities  | No new water needs now that the reservoir is full  | Animas La Plata Water Conservancy District, Bureau of Reclamation, La Plata County, City of Durango   | City of Durango                             |

**SMA EXHIBIT 8**

| ID | County    | HUC      | Subbasin                              | MajorProvider   | Notes   | Remaining Gap AF | Supplies Beyond 2050 | Source   |
|----|-----------|----------|---------------------------------------|---|---|------------------|----------------------|--|
| 46 | Montezuma | 14080105 | Mancos                                | Mancos, Town  | Source is Jackson Reservoir and direct flow rights.   | 0                | Y                    | John Porter & Raymond Keith (updated from SWSI 1)  |
| 47 | Montezuma | 14080105 | Mancos                                | Mancos Rural Water Company                                      | Negotiated added supplies thru 2020 from Jackson Project (300 af). Assume more available thru 2030.   | 0                | N                    | Raymond Keith (updated from SWSI 1)                |
| 48 | Montezuma | 14080107 | San Juan                              | Montezuma Water Company   | Supplies potable water to rural Dolores and Montezuma Counties. Continually expanding to serve new areas presently on wells on hauling.   | 0                | Y                    | John Porter (updated from SWSI 1)                  |
| 49 | Montezuma | 14030002 | Dolores                               | Dolores, Town   | Have water rights and could purchase water from Dolores Project if needed.  | 0                | Y                    | John Porter  |
| 50 | Montezuma | 14030002 | Dolores                               | Cortez, City  | Have direct flow rights and Dolores Project Water available.  | 0                | Y                    | Response to CDM survey                             |
| 51 | Montezuma | 14080107 | McElmo                                | Summit Water District   | Montezuma Water Company is now providing water to the District. Completed IPP.  | 0                | N                    | Harris   |
| 52 | Montezuma | 14030002 | Dolores                               | Montezuma County Water District                                 | Serves rural area south Cortez. Could purchase water from Dolores Project Water or Montezuma Water Company.   | 0                | Y                    | John Porter  |
| 53 | Montezuma | 14080105 | All subbasins Mancos/ McElmo/ Dolores | Unincorporated Montezuma County not covered by a water district | Have assumed 5 to 10 percent of future demand in each county will be in rural area not served by a water district and groundwater or hauling water may be the only options and alternatives will not be developed   | 168              | N                    | BRT feedback                                       |
| 54 | Montrose  | 14030003 | San Miguel                            | SWCD and Montrose County  | Montrose County, with assistance from SWCD, is evaluating the future water needs in the San Miguel basin in the County and the IPP's to meet the needs. A report and water rights application are planned to be prepared. IPP's will be identified and recommended for inclusion. | TBD              | Y                    | SWCD (new IPP)                                     |
| 55 | Montrose  | 14030003 | San Miguel                            | CC Ditch  | Modification of the headgate of the CC Ditch on the San Miguel River is being considered to improve the ability of kayaks and other boats to pass through the diversion   | N                | N                    | SWCD (new IPP)                                     |
| 56 | Montrose  | 14030003 | San Miguel                            | Nucla   | Mustang Water Authority formed to provide water.  | 0                | U                    | Buckhorn Geotech Report on Mustang Water Authority |
| 57 | Montrose  | 14030003 | San Miguel                            | Naturita  | Mustang Water Authority formed to provide water.  | 0                | U                    | Buckhorn Geotech Report on Mustang Water Authority |
| 58 | Montrose  | 14030003 | San Miguel                            | Tri-State Power Facility  | Have adequate water rights for future demands but would need storage to firm the yield if plant is expanded. Need storage options.  | 2000             | N                    | Bill Haffner, Tri-State Generating                 |
| 59 | Montrose  | 14030003 | San Miguel                            | Unincorporated Montrose County not covered by a water system    | Have assumed 5 to 10 percent of future demand in each county will be in rural area not served by a water district and groundwater or hauling water will be the only options and alternatives will not be developed  | 135              | N                    | BRT feedback                                       |