

## **BEFORE THE COLORADO WATER CONSERVATION BOARD**

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### **IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION DIVISION 4: SAN MIGUEL RIVER**

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#### **FIRST PREHEARING ORDER**

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A prehearing conference for the contested proposed instream flow appropriation on the San Miguel River was held on July 29, 2011 at 2:30 p.m. at the Colorado Department of Law, 1525 Sherman Street, Denver, Colorado. The purpose of the prehearing conference was to establish an agenda for the hearing before the Colorado Water Conservation Board (CWCB) and resolve any procedural issues prior to the hearing.

The hearing will be held in conjunction with the CWCB's meeting on September 13-14, 2011, at the Ute Water Conservancy District Offices, 2190 H 1/4 Road, Grand Junction, CO, 81505-9330. The CWCB hearing on the San Miguel River contested instream flow appropriations will commence at 10:00 a.m. on September 13, 2011.

All parties to this matter were in attendance at the prehearing conference, either by telephone or in person, except the Bureau of Land Management.

#### Hearing Agenda

The Hearing will be governed by the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, including Rule 5p, which address the conduct of the hearing. During the prehearing conference there was discussion regarding the ability of the parties to reserve time for rebuttal at the hearing. On further consideration, the Hearing Officer recommends that oral rebuttal be allowed only within each party's presentation in chief and parties not be allowed to reserve time. The Hearing Officer proposes the following hearing agenda to the CWCB.

The proponents and opponents of the ISF will each be given a block of time to be divided among themselves in their order of preference within their group. CWCB Staff shall present first, the rest of the proponents (including DOW and BLM) shall present second, and the opponents shall present third. CWCB Staff will be allowed to reserve time at the end of the hearing for final comments. Comments by Contested Hearing Participants and public comment will be taken after all parties have made their presentations.

The total time scheduled for testimony is 5 hours with an additional 30 minutes for comments by Contested Hearing Participants and public comment. The groups can designate one or more spokespeople to speak on their behalf, including attorneys.

Proponents of the ISF: 3 Hours Total Presentation Time

CWCB Staff  
DOW  
BLM  
Sheep Mountain Alliance  
Western Resource Advocates  
The Wilderness Society

Opponents of the ISF: 2 Hours Total Presentation Time

Board of County Commissioners of Montrose County  
Farmers Water Development Company  
Southwestern Water Conservation District  
Norwood Water Commission  
Lone Cone Ditch and Reservoir Company

Comments from Contested Hearing Participants and Public Comment: 30 minutes

Written submissions

Pursuant to Rule 5c of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, the Hearing Officer hereby establishes the following deadlines for written submissions.

Motions and Responses to Motions: August 8, 2011 and August 15, 2011, respectively

Parties are required to file any motions with the CWCB by August 8, 2011. All responses to motions are due to CWCB by August 15, 2011. Each movant and respondent shall file twenty-two hard copies of its pleading, duplexed and 3 hole-punched, with the CWCB by 4:45 p.m. on the date it is due. By this deadline, each Party shall also send its motion and/or response, by hard copy or email, to all other Parties, Contested Hearing Participants, the Hearing Officer and the Assistant Attorney General representing the Staff.

The CWCB will consider all motions at the beginning of the hearing, and the time taken to hear the motions will be subtracted from the movant's time allocation.

Written Rebuttal Statements: August 19, 2011

On or before 4:45 p.m. of August 19, 2011, each Party shall file twenty-two hard copies, duplexed and 3 hole-punched, of its rebuttal statement with the CWCB. By this deadline, each party shall also send its rebuttal statement, by hard copy or email, to all other Parties, Contested Hearing Participants, the Hearing Officer and the Assistant Attorney General representing the Staff.

**Rebuttal statements shall include the time allocated to each party to present their case within the proponent group and the opponent group, and the order of presentation.**

Prefiled Written Testimony: August 26, 2011

Parties may also file written testimony with the CWCB by 4:45 p.m. on August 26, 2011. Each Party shall file twenty-two hard copies, duplexed and 3 hole-punched, of its written testimony with the CWCB. By this deadline, each Party shall also send its written testimony, by hard copy or email, to all other Parties, Contested Hearing Participants, the Hearing Officer and the Assistant Attorney General representing the Staff. The CWCB will not consider information submitted by the Parties after this deadline except for good cause shown.

Referenced Materials

All materials referenced in documents submitted to CWCB must be sent electronically to CWCB for inclusion in the hearing record.

Hearing Date: September 13, 2011 at 10:00 a.m.

The hearing for this matter is scheduled for September 13, 2011 at 10:00 a.m. at the Ute Water Conservancy District Offices, 2190 H 1/4 Road, Grand Junction, CO, 81505-9330.

Dated this 2<sup>nd</sup> day of August 2011.



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Casey Shpall  
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## CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing First Prehearing Order upon all parties herein by email or depositing copies of the same in the United States mail or via email, postage prepaid, at Denver, Colorado, this 2<sup>nd</sup> day of August 2011, addressed as follows:

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Robert W. Bray, Secretary

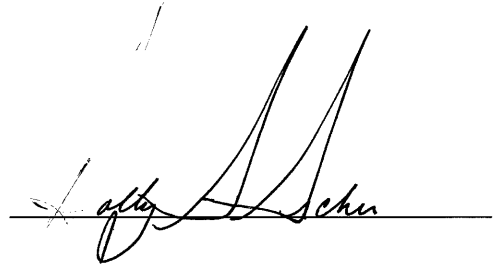
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Board of County Commissioners of San Miguel County

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A handwritten signature in black ink, appearing to read "Becky Long", is written over a horizontal line. The signature is stylized with large, sweeping loops.