

**BEFORE THE COLORADO WATER CONSERVATION BOARD**

**STATE OF COLORADO**

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**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATIONS  
IN WATER DIVISION 7: HIMES CREEK**

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**TROUT UNLIMITED'S NOTICE OF CONTESTED HEARING PARTICIPANT STATUS**

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Trout Unlimited hereby submits the following Notice of Contested Hearing Participant Status pursuant to the Colorado Instream Flow Program Rules and the CWCB's Public Notice of Contested ISF Appropriation dated June 10, 2019.

**I. Identity of Entity Seeking Contested Hearing Participant Status**

Trout Unlimited  
Colorado Trout Unlimited  
Five Rivers Chapter of Trout Unlimited

Please direct all notices, pleadings and any other correspondence to counsel:

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**II. Identification of Contested Instream Flow Appropriation**

- A. Name: Himes Creek
- B. Proposed reach: From headwaters downstream to the Himes Ditch headgate
- C. Length: 2 miles
- D. CWCB ID: 17/7/A-001

**III. Basis for Participant Status Request**

Trout Unlimited (TU) is a national not for profit organization with over 300,000 members and supporters nationwide. At the state grassroots level, TU operates through its state council, Colorado Trout Unlimited, and its 24 very active chapters. The Five Rivers Chapter is based in southwest Colorado. Preservation of native trout species and their habitat is a priority for TU's members who have dedicated hundreds of volunteer hours in reintroduction efforts, including efforts in southwest Colorado.

1. Himes Creek is one of only eight locations where the native San Juan cutthroat trout, thought to be extinct, persists. Preserving sufficient flows to ensure their survival is imperative.
2. The ISF reach of Himes Creek is located entirely within the San Juan National Forest and it ends upstream of the only water rights diversion in the creek. As such, it will not have an impact on water rights.
3. CPW, the state's fish expert agency, has determined that, given the physical characteristics of Himes Creek, using the R2Cross methodology usually favored by the CWCB would not provide the flows needed to preserve the species. Such flows would be insufficient to ensure the perpetual existence and maintenance of the pool habitat which the species needs for its survival. CPW has determined that, in the case of Himes Creek, "the full range of available flows are needed to ensure the protection of this critical low flow habitat into the future."
4. We urge the CWCB to follow the recommendations of the expert agency.
5. TU reserves the right to submit additional comments on the proposed Himes Creek Instream Flow Appropriation as this matter proceeds in accordance with the Colorado Instream Flow Program Rules.

Respectfully submitted this 1<sup>st</sup> day of July 2019.



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and the Five Rivers Chapter of Trout Unlimited