

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

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

TROUT UNLIMITED'S WITHDRAWAL OF CONTESTED HEARING PARTICIPANT STATUS

Trout Unlimited, through undersigned counsel, hereby provides notice of its intent to withdraw its Contested Hearing Participant Status as follows:

1. Trout Unlimited has offered written and verbal comments in support of the instream flow water rights appropriation for Himes Creek urged by the U.S. Forest Service, Colorado Parks and Wildlife, and CWCB staff. The Board adopted their proposal at its March 2019 meeting.
2. On May 31, 2019, the Southwestern Water Conservation District and the Dolores Water Conservancy District (the "Districts") filed Notice to Contest the Board's March 2019 Himes Creek instream flow water rights appropriation.
3. On July 1, 2019, Trout Unlimited submitted a timely Notice of Contested Hearing Participant Status urging the Board to affirm its March appropriation.
4. Trout Unlimited was subsequently notified by CWCB staff that they had entered into a proposed stipulation with the Districts, subject to the Board's approving it. The Stipulation, dated July 1, 2019, is attached to this Notice.
5. Trout Unlimited has reviewed the Stipulation and disagrees with some of the factors deemed pertinent for purposes of the Board's appropriation, including (a) the ability (or lack thereof) of the fish to move to a different location if water development were to take place, and (b) the fact that upstream development is highly unlikely. Neither factor is appropriate for consideration in an instream flow water rights filing.
6. Nevertheless, Trout Unlimited believes the language of the appropriation and of the Stipulation is clear, that said appropriation is not intended to create a precedent or have precedential value and, therefore, does not oppose the Stipulation.
7. For the above-stated reasons and to foster speedy resolution of the matter without further hearings, should the Board adopt the July 1, 2019 Stipulation and the Districts withdraw their notices to contest, Trout Unlimited withdraws its Notice of Contested Hearing Participant.

Respectfully submitted this 15th day of July 2019.

A handwritten signature in black ink that reads "Amelia S. Whiting". The signature is written in a cursive style with a large, looping "A" and a long, horizontal stroke at the end.

Amelia Whiting, #19035
Legal Counsel, Colorado Water Project
Trout Unlimited
P.O. Box 1544
Pagosa Springs, CO 81147
Telephone: (720)470-4758
mwhiting@tu.org

Attorney for Trout Unlimited, Colorado Trout Unlimited
and the Five Rivers Chapter of Trout Unlimited