

**Notification of Opposition to CWCB East Muddy Creek ISF** June 2, 2025

Jim Auster and Merrilee Bliss, owners of Hummingbird Ranch on Lee Creek, 26140 Hwy 133, Somerset CO 81434 hereby submit their Notification of Opposition to CWCB proposed ISF for East Muddy Cr.

1. DWR Muddy Creek gauge above Paonia Reservoir is 57 cfs on 6/1/2025, median flow for this date is 450 cfs. The last time Muddy gauge had zero flow was in August 1990, 6/1/1990 was 127 cfs.
2. <https://dwr.state.co.us/Tools/Stations/MUDAPRCO?params=DISCHRG>
3. Muddy Creek has record low runoff level with a high probability for complete dry-up this summer.
4. Bluehead Sucker population cannot survive dry-up of streamflow and pools.
5. If E Muddy Cr does not have long-term viability to sustain habitat for Bluehead Sucker, ISF may be opposed for no valid beneficial use while precluding all other valid beneficial uses of that water.
6. New water storage rights will be necessary if our share of Ragged Mt Water User Assoc. exchange augmentation water is reduced or lost due to sedimentation of Paonia Reservoir.
7. Storage rights benefit ISF by supplementing late season flow but are not possible unless new storage decrees are exempt from the ISF.
8. Amount of water available for East Muddy Creek ISF is based on 1930 -1953 USGS gauge and from 2020-2024 temporary gauge on West Muddy subtracted from MUDAPRCO gauge of total flow.
9. These records do not include twenty drought years after 2000, unprecedented low runoff this year, and expectations of more reduction in Colorado basin water supply with earlier and lower runoff from warmer temperatures, lower snowpack, increased evaporation, dry ground absorption, etc.
10. ISF that encumbers all available water is premature without more years to measure if 2025 extreme low flow or dry-up with risk to fish population is the new normal long-term trend.
11. If lower flow is the long-term projection, 1930-1953 streamflow records and short-term extrapolation of temporary gauge are obsolete, inaccurate, and irrelevant to calculate the correct amount of available water that can be claimed by the ISF application.
12. CWCB can accomplish much more to improve fish habitat and population than with the proposed ISF by supporting measures to improve water quality with revegetation of eroding steep slopes in Muddy Cr headwaters. 100 af/year of sediment material is running like an open sewer down E Muddy Cr. Paonia Reservoir has been filling with an average of one dump truck load every 15 minutes since 1962. CWCB can contribute to finding methods of discharging it downstream.
13. In response to my comments at 5/21/2025 CWCB meeting Board members acknowledged protecting fish from stream dry-up is more important and higher priority than junior ISF that does not prevent dry-up by senior decrees, but there has been no response to our offer of an ISF lease.
14. ISF will not improve Muddy Cr water quality, increase streamflow, or benefit fish population and habitat from conditions that are basically the same since this area was first homesteaded in 1910
15. ISF will negatively affect long-term water and land use options and economic development.

Please consider negotiating an emergency low flow ISF lease from our Columbine Ditch decree. If we have an agreement on terms of a contract for senior ISF lease we will withdraw our opposition to the junior ISF and voluntarily release water to prevent dry-up this summer while an application for change of use to ISF is processed and completed.

Jim Auster  
and Merrilee Bliss

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