

**BEFORE THE COLORADO WATER CONSERVATION BOARD
DEPARTMENT OF NATURAL RESOURCES, STATE OF COLORADO**

**IN THE MATTER OF THE RULEMAKING HEARING FOR CONSIDERATION OF
AMENDMENTS TO THE BOARD'S RULES CONCERNING THE COLORADO INSTREAM
FLOW AND NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2**

**APPLICATION FOR PARTY STATUS OF WESTERN RESOURCE ADVOCATES, TROUT
UNLIMITED, CONSERVATION COLORADO, AND THE NATIONAL AUDUBON SOCIETY**

Western Resource Advocates (“WRA”), by and through the undersigned counsel, submit the following Notice of Party Status regarding the Staff ISF Recommendation on Milk Creek, Water Division No. 6. *See* Notice of Contested 2025 ISF Appropriations (via email June 6, 2025) (“ISF Appropriation”). This Notice of Party Status is submitted in a timely manner pursuant to Rule 51 of the Rules Concerning Instream Flow and Natural Lake Level Program, 2 CCR 408-2 (“ISF Rules”).

1. **Identity of Parties:**

Western Resource Advocates
1401 Walnut Street, Suite 200
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Address for Service of Pleadings:

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2. **Identification of recommendations at issue:**

MILK CREEK (confluence with Wilson Creek to confluence with Yampa River) CWCB ID: 18/6/A-002. Posted in Notice of Contested 2025 ISF Appropriations (June 6, 2025).

3. **Statement of Reasons:**

Western Resource Advocates (“WRA”) is a non-profit conservation organization dedicated fighting climate change and its impacts to the West’s land, air, and rivers. WRA is a long-time supporter of the CWCB’s instream flow program, the Upper Colorado River Endangered Fish Recovery Program, and other efforts to protect and improve flows, habitat, and the environment in rivers across Colorado, including in the Yampa River Basin. WRA supports efforts to protect (and keep from being federally listed) native fish species, including the Three Species noted in the proposed Milk Creek ISF. With our long history of work to protect and improve river flows for the natural environment, WRA will add value to these proceedings.

4. Contested facts, to the extent known at this time:

- a. Whether the ISF Appropriation complies with C.R.S. § 37-92-102(3)(c) and ISF Rule 5i:
 - i. Whether there is a natural environment that can be preserved to a reasonable degree by this ISF Appropriation, if granted.
 - ii. Whether the natural environment will be preserved to a reasonable degree by the water available for this ISF Appropriation.
 - iii. Whether such environment can exist without material injury to water rights.
- b. Whether this ISF Appropriation is consistent with present uses or exchanges of water being made by other water users pursuant to appropriation practices in existence on the date of such appropriation, whether or not previously confirmed by court order or decree, within the meaning of C.R.S. § 37-92-102(3)(b).
- c. Whether this ISF Appropriation is consistent with the beneficial use of the water of the people of the State of Colorado under law and interstate compact, within the meaning of C.R.S. § 37-92-102(3).
- d. Any contested fact(s) raised by other Parties to this contested ISF Appropriation.
- e. WRA reserves the right to identify other contested facts prior to or during a hearing on this contested ISF Appropriation.

5. Matters that should be decided, to the extent known at this time:

- a. There is a natural environment that can be preserved to a reasonable degree by this ISF Appropriation, if granted.
- b. The natural environment will be preserved to a reasonable degree by the water available for this ISF Appropriation.
- c. Such environment can exist without material injury to water rights.
- d. This ISF Appropriation is consistent with present uses or exchanges of water being made by other water users pursuant to appropriation practices in existence on the date of such appropriation, whether or not previously confirmed by court order or decree.
- e. This ISF Appropriation is consistent with this Board's authority to "correlate the activities of mankind with some reasonable preservation of the natural environment" under C.R.S. § 37-92-102(3).
- f. This ISF Appropriation will maintain minimum stream flows necessary to preserve the natural environment to a reasonable degree.
- g. This ISF Appropriation is consistent with the beneficial use of the water of the people of the State of Colorado under law and interstate compact.
- h. Any contested matter(s) raised by other Parties to this contested ISF Appropriation.
- i. WRA reserves the right to identify other matters that should be decided prior to or during a hearing on this contested ISF Appropriation.


6. Data upon which WRA will rely, to the extent known at this time:

- a. State and federal agency reports, memos, and letters pertaining to the subject ISF recommendations, including all attachments and appendices. Other state and federal agency data may include, but is not limited to, stream gage records.

- b. Technical evidence and witnesses provided by WRA and other Parties to this contested ISF Appropriation.
- c. All documents, data, and testimony offered by other Parties to this contested ISF Appropriation.
- d. WRA reserves the right to identify and present additional data, documents, and testimony upon which it may rely as new information becomes available.

Wherefore, WRA hereby requests that the Board grant it party status in this contested ISF Appropriation hearing under Rule 5/ of the ISF Rules.

Respectfully submitted this 1st day of July 2025.

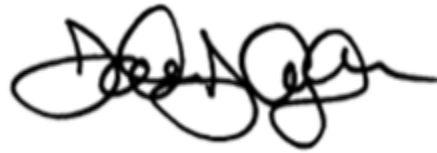


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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2025, the above **Notice of Party Status** was shared with the following by email as follows:

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