

**BEFORE THE OFFICE OF THE STATE ENGINEER
STATE OF COLORADO**

**IN THE MATTER OF RULES AND REGULATIONS FOR)
THE DETERMINATION OF THE NONTRIBUTARY NATURE) 2 CCR 402-17
OF GROUND WATER PRODUCED THROUGH WELLS)
IN CONJUNCTION WITH THE MINING OF MINERALS)**

PREHEARING ORDER ON MOTIONS

Requests for Late Party Status

The following parties have requested late party status: the San Juan Citizens Alliance (SJCA), the United States Forest Service and the Bureau of Land Management. The Hearing Officer denied the SJCA request on November 23, 2009, and SJCA has asked for reconsideration.

Opposition to these three requests for late party status was filed on November 25, 2009, by the proponents of the Proposed Alternate Rule for San Juan Basin- Fruitland Formation, joined in by OXY USA, COGA and CPA. Senior Water Users and the Colorado Environmental Coalition (CEC) filed a reply in support of the United States Forest Service and the Bureau of Land Management request for party status on November 25, 2009.

Due to the lateness of these three requests for party status and the fact that the rulemaking hearing will commence on December 2, 2009, these requests are denied. SJCA, the United States Forest Service and the Bureau of Land Management can participate in the rulemaking hearing through public comment which is scheduled for the morning of December 2, 2009.

Motion to Strike Senior Water Users and CEC Joint Prehearing Statement

Proponents of the Proposed Alternate Rule for San Juan Basin – Fruitland Formation filed a motion on November 25, 2009, requesting that the Senior Water Users and CEC joint prehearing statement be struck and that the CEC and SJCA supplemental prehearing statement be treated as a responsive prehearing statement.

The motion is denied. The State Engineer will give all submissions the weight they are due taking into consideration concerns raised by all Parties. The CEC and SJCA supplemental prehearing statement will be treated as submitted solely by CEC since SJCA does not have party status.

Rebuttal Statements

The Hearing Officer is extending the deadline for Rebuttal Statements to November 30, 2009 at 5:00 p.m. and must be submitted by electronic mail to laura.kalafus@state.co.us. In addition, three hard copies of this document must be delivered to the following address: Office of the State Engineer, Produced Water Rulemaking, 1313 Sherman Street, 8th floor, Denver, Colorado 80203.

Public Comment

Written public comment will be accepted by the State Engineer until 5:00 p.m. on December 4, 2009. Written public comment must be submitted by electronic mail to laura.kalafus@state.co.us.

Oral public comment is scheduled for December 2, 2009, in the morning after introductory remarks by the State Engineer. Additional oral public comment will also be scheduled if necessary in the morning during other hearing days.

Dated this 25th day of November, 2009.

/s/
Casey Shpall
Hearing Officer