

will result in impacts to instream flows and environmental and human health in the Green River area.

2. MRI also maintains that Protesters' analysis of Section 73-3-8 "for the most part" consists of "allegations and generalizations" about how to interpret the statute and "is incorrect and very biased." Mark Page, Letter to Mancos Resources, p. 1 (June 30, 2008). (Page Letter). MRI, however, provides no basis for this statement, which is speculative and unfounded. Indeed, rather than being "biased" the protestors simply illustrate the violations of 73-3-8 inherent in the water right application and rational for why these are violations of the code.

3. Apparently in response to Protestors claim that the application would violate Utah Code Ann. §73-3-8(1) which dictates that applications must be rejected if approval would result in the impairment of existing water rights, or interfere with more beneficial uses of water -- such as stockwatering, municipal and agricultural uses, and providing habitat for state-sensitive fish and wildlife species and other fish and wildlife, MRI provides that "the application is requesting a very small volume of water from the river." Page Letter at 2. Yet, MRI, itself, admits that the Protest's claim that the over appropriation of water in the state "is a fact." *Id.*

4. MRI provides that Protesters "assertion that your diversion will interfere with the endangered species, in-stream flows, present and future, water quality issues and further exacerbated the effects of climate change is purely speculative and unfounded." *Id.* This conclusion, however, is contrary to the fact that four endangered species including the humpback chub (*Gila cypha*), bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), and razorback sucker (*Xyrauchen texanus*). See, U.S. Fish and

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