



March 25, 2015

Colorado Water Conservation Board
c/o Jeffrey Baessler, Deputy Section Chief
1313 Sherman Street, Room 721
Denver, CO 80203

jeffrey.baessler@state.co.us

**Re: Proposed 2014 Instream Flow Appropriations
Water Division 4, Dolores River Mainstem, Mesa and Montrose Counties**

Dear Mr. Baessler:

The Colorado River Water Conservation District (River District) submits this letter as our formal Notice to Contest the above-captioned proposed instream flow filing.

In accordance with the Colorado Water Conservation Board's "Rules Concerning the Colorado Instream Flow and Natural Lake Level Program" (2 CCR 408-2), Section 5k (2), we provide the following information:

(a) Identification of the Person(s) requesting the hearing:

Peter Fleming, General Counsel
Colorado River Water Conservation District
P.O. Box 1120
Glenwood Springs, CO 81602-1120

(b) Identification of the ISF appropriation(s) at issue:

Mainstem of the Dolores River in Montrose and Mesa Counties, from the confluence of the San Miguel River downstream to the confluence with West Creek.

(c) The contested facts and a general description of the data upon which the Person will rely to the extent known at that time:

The River District files this Notice of Contest for the reasons listed below. We reserve the right to raise additional concerns at a later time.

- The River District is a quasi-municipal subdistrict of the State of Colorado legislatively charged by its organic act with “the conservation, use, and development of the water resources of the Colorado river and its principal tributaries” (C.R.S. § 37-46-101)
- The Dolores River in Mesa County is included in the River District’s boundaries.
- The River District is concerned that the proposed filing may be inconsistent with the CWCB’s statutory direction “to correlate the activities of mankind with some reasonable preservation of the natural environment . . .” and with the statutory provision that specifies “(n)othing in this article shall be construed as authorizing any state agency . . . to deprive the people of the state of Colorado of the beneficial use of those waters available by law and interstate compact.” (C.R.S. § 37-92-102(3))
- The River District is concerned that the proposed filing may be greater than the statutorily required “minimum stream flows . . . to preserve the natural environment to a reasonable degree.” (C.R.S. § 37-92-102(3))
- The River District is concerned that the proposed filing may not be consistent with the CWCB’s statutory direction “to promote the conservation of the waters of the state of Colorado in order to secure the greatest utilization of such waters” (C.R.S. § 37-60-106(a))
- The River District is concerned that the proposed filing may be inconsistent with the CWCB’s statutory responsibility to “(aid) in the protection and development of the waters of the state, for the benefit of the present and future inhabitants of the state” (C.R.S. § 37-60-102)
- The River District is concerned that the state’s proposed filing may not be timely given pending federal decisions likely affecting the Dolores River with attendant protection and development implications, including potential Wild & Scenic River suitability determinations from at least three separate BLM field offices.
- The River District is concerned that the state’s proposed filing may be premature given the emerging consensus from the stakeholder-driver Dolores River Dialogue regarding land use designations and determinations to best protect both the natural environment and Colorado’s reasonable opportunity to develop and use its water resources.
- The River District believes that opportunities exist to resolve its concerns and those of other parties related to the proposed Dolores River instream flow filing.

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The River District looks forward to the opportunity to explore a mutually satisfactory resolution to this issue.

Sincerely,



Peter C. Fleming,
General Counsel

cc: Russell George, President, Colorado Northwest Community College, russell.george@cncc.edu
John McClow, Esq., Upper Gunnison River Water Conservancy District; jmcclow@ugrwc.org
Jay Gallagher, Manager, Mt. Werner Water & Sanitation District, jgallagher@mwwater.com
Bruce Whitehead, Executive Director, Southwestern Water Conservation District,
brucew@southwesternwater.org