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April 29, 2015

Colorado Water Conservation Board  
1313 Sherman St., 7<sup>th</sup> Floor  
Denver, CO 80203  
[Rob.Viehl@state.co.us](mailto:Rob.Viehl@state.co.us)

**By Electronic Mail**

**Re: Notice of Party Status – Contested ISF Appropriation on the Lower Dolores River (confluence San Miguel River to confluence West Creek)**

Dear CWCB Board Members:

Please find enclosed Sheep Mountain Alliance's Notice of Party Status regarding the Staff ISF Recommendation on the Dolores River (confluence San Miguel River to confluence West Creek), Water Division No. 4. This Notice of Party Status is submitted in a timely manner, on or before April 30<sup>th</sup>, pursuant to Rule 51 of the Rules Concerning Instream Flow and Natural Lake Level Program, 2 CCR 408-2.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Russell". The signature is written in a cursive, flowing style.

Jennifer Russell

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

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IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER  
DIVISION 4: DOLORES RIVER (confluence San Miguel River to confluence West  
Creek)

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NOTICE OF PARTY STATUS

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Sheep Mountain Alliance (hereinafter “SMA”), by and through its undersigned counsel, submits the following Notice of Party Status regarding the Staff ISF Recommendation on the Dolores River, Water Division No. 4 (the “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 Party:

Sheep Mountain Alliance  
PO Box 389  
Telluride, CO 81435

Address for service of pleadings:

Jennifer Russell  
Russell & Pieterse, LLC  
PO Box 2673  
Telluride, CO 81435  
Tele: (970) 239-1972  
[jenny.russell@lawtelluride.com](mailto:jenny.russell@lawtelluride.com) \*(Please serve all pleadings by email.)

2. Identification of recommendations at issue:

DOLORES RIVER (confluence San Miguel River to confluence West  
Creek) CWCB ID: 14/4/A-006.

3. Statement of Reasons:

- a. SMA is a grassroots citizens’ organization dedicated to the preservation of the natural environment in the Telluride Region and Southwest Colorado. SMA recognizes the need to protect native fish species through the appropriation of an instream flow on the Dolores River. SMA and its members support the ISF Appropriation to prevent the federal listing of

the native fish identified in the Staff's Executive Summary for the proposed ISF Appropriation and to support the transition of the Dolores River corridor back to a vegetation community dominated by native species.

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(1)–(3):
  - 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. SMA 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 could 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 the beneficial use of the water of the people of the State of Colorado under law and interstate compact.
  - f. This ISF Appropriation does not exceed the quantity authorized by C.R.S. § 37-92-102(3).
  - g. The CWCB did not apply an incorrect legal standard in determining this ISF Appropriation.
  - h. This ISF Appropriation is supported by technical evidence and documentation.
  - i. Pending conditional water rights applications are not relevant under C.R.S. § 37-92-102(3) or Rule 5i of the ISF Rules.
  - j. Potential future changes of existing water rights are not relevant under C.R.S. § 37-92-102(3) or Rule 5i of the ISF Rules.
  - k. Any contested matter(s) raised by other Parties to this contested ISF Appropriation.
  - l. SMA 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 SMA will rely, to the extent known at this time:
- a. State and federal agency reports, memoranda and letters pertaining to the subject ISF Appropriation recommendations, including all attachments and appendices. Other state and federal agency data may include, but is not limited to, stream gauge records.
  - b. Technical evidence and witnesses provided by SMA and other Parties to this contested ISF Appropriation.
  - c. All documents, data, and testimony offered by other Parties to this contested ISF Appropriation.
  - d. SMA reserves the right to identify and present additional data, documents, witnesses and testimony upon which it may rely as new information becomes available.

Wherefore, SMA hereby requests that the Board grant party status to SMA in this contested ISF Appropriation hearing under Rule 51 of the ISF Rules.

Respectfully submitted this 29<sup>th</sup> day of April, 2015.

**RUSSELL & PIETERSE, LLC**

A handwritten signature in blue ink that reads "Jenny Russell". The signature is fluid and cursive, with the first name "Jenny" and last name "Russell" clearly distinguishable.

Jennifer Russell, Attorney Reg. # 22047  
[jenny.russell@lawtelluride.com](mailto:jenny.russell@lawtelluride.com)

**ATTORNEYS FOR SHEEP MOUNTAIN ALLIANCE**

## CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing NOTICE OF PARTY STATUS upon all parties herein by email this 29<sup>th</sup> day of April, 2015, addressed as follows:

Colorado Water Conservation Board  
Staff  
Linda Bassi  
[linda.bassi@state.co.us](mailto:linda.bassi@state.co.us)

John S. Hendricks and Western Sky  
Investments, LLC  
Mark E. Hamilton  
William H. Caile  
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Southwestern Water Conservation Dist.  
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Colorado River District  
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[r20smith@blm.gov](mailto:r20smith@blm.gov)

Colorado Parks & Wildlife  
Jay Skinner  
[jay.skinner@state.co.us](mailto:jay.skinner@state.co.us)



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Jennifer Russell