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April 28, 2015

Colorado Water Conservation Board
1313 Sherman Street, Room 718
Denver, CO 80203


re: In the Matter of Proposed Instream Flow Appropriation in Water Division 4:
Dolores River, CWCID ID 14/4A-006

Ladies and Gentlemen:

Enclosed please find Dolores Water Conservancy District's Notice for Party Status in the above-referenced matter.

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP


Suzanne P. Singley
Secretary to John Barlow Spear

:sps
enclosure

**COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO**

**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER
DIVISION 4: DOLORES RIVER (“Lower Dolores” – confluence San Miguel River to
confluence West Creek), CWCB ID 14/4A-006**

**DOLORES WATER CONSERVANCY DISTRICT
NOTICE FOR PARTY STATUS**

The Dolores Water Conservancy District (“DWCD”), through its attorneys, Maynes, Bradford, Shipp & Sheftel, LLP, respectfully submits this Notice for Party Status for the proposed Lower Dolores River Instream Flow, pursuant to Rule 51 of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 C.C.R. 408-2 (the “ISF Rules”).

I. IDENTITY OF CONTESTING PARTY

Dolores Water Conservancy District
c/o Mike Preston, General Manager
P. O. Box 1150
Cortez, Colorado 81321

Please direct all notices, pleadings, and correspondence to DWCD’s attorneys:

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II. IDENTITY OF PROPOSED INSTREAM FLOW APPROPRIATION

Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Quad Sheet(s)	Flow (CFS)
4	Dolores River	Lower Dolores	Montrose, Mesa	34.21	confl. San Miguel River	confl. West Creek	Red Canyon. Roc Creek. Juanita Arch. Gateway	200 (3/16-4/14) 900 (4/15-6/14) 400 (6/15-7/15) 200 (7/16-8/14) 100 (8/15-3/15)

III. STATEMENT FOR OBTAINING PARTY STATUS AS REQUIRED BY RULE 51 OF THE ISF RULES.

A. Reasons for Seeking Party Status.

1. The DWCD is a water conservancy district formed by petition and judicial decree pursuant to C.R.S. §37-45-101, *et. seq.*, to provide for the conservation and development of the waters of the Dolores River and its tributaries;
2. The DWCD operates the Dolores Project, a federal reclamation project, which includes the 345,000 acre-foot McPhee Reservoir located on the Dolores River approximately 105 miles above the proposed ISF reach;
3. Pursuant to C.R.S. §37-45-102(3)(b) and (3)(c), the development and construction of the Project is deemed to be the development, use and conservation of water and a public use essential for the public benefit of the people of Colorado;
4. The Project has significantly contributed to improving the environment and water quality in the lower Dolores River, including ongoing cooperative efforts among the DWCD, the CWCB, and federal and other state agencies, water users, and conservation groups outside the CWCB ISF process;
5. The DWCD and its constituents own water rights adjudicated pursuant to Colorado law that grant the owners thereof the right to appropriate water from the Dolores River and its tributaries;
6. In addition to managing the Dolores Project, the DWCD has a statutory obligation to assist in meeting the current and future water needs within the DWCD;
7. The CWCB currently has ISF water rights covering approximately 146 miles of the 200-mile Dolores River from its headwaters to where it leaves Colorado. If adjudicated, the proposed ISF will increase the river mileage covered by CWCB ISF water rights to 180. The CWCB also holds additional ISF water rights on many tributaries of the Dolores River, including the San Miguel River;
8. The Dolores River below McPhee Reservoir covers 144 miles. The CWCB will hold – if the proposed ISF is adjudicated – ISF rights for Dolores River reaches totaling 134 miles below McPhee Reservoir. The proposed ISF reach extends 34 miles from the confluence of the Dolores and San Miguel rivers to 10 miles from the state line.
9. In order to avoid filing either a Notice to Contest or for Party Status, the DWCD engaged in negotiations with CWCB staff to formulate conditions that would ensure interests of the DWCD are protected and allow the DWCD to support the proposed ISF.
10. These negotiations continued in February and March and on March 27, 2015, it appeared that the DWCD could substantially accept modifications and language changes proposed by CWCB staff to the original conditions proposed by the DWCD.

11. The negotiations, however, stalled when the CWCB staff would not endorse the conditions proposed by the DWCD, and modified by CWCB staff, unless the DWCD and the Southwestern Water Conservation District (“SWCD”) jointly agreed to refrain from seeking a condition proposed by SWCD for the proposed ISF regarding future depletion allowance.

12. While the DWCD supports the concept of a depletion allowance, it did not require that a depletion allowance be imposed as a condition of the proposed ISF and requested that the CWCB staff separate the eight conditions sought by the DWCD from the depletion allowance condition sought by the SWCD. The CWCB staff has not separated the eight DWCD conditions from the SWCD condition, even though the language proposed for the eight DWCD conditions by the CWCB staff has been substantially accepted by the DWCD.

13. Because no negotiated settlement agreement between the DWCD and the CWCB staff has been reached to present to the CWCB, the DWCD Board of Directors elected at its March 9 regular meeting to file for Party Status to allow DWCD to participate in the ISF proceedings before the CWCB.

B. Contested Facts and Matters to be Decided.

1. The DWCD adopts, and incorporates herein, the Contested Facts as set forth in the SWCD Notice to Contest and the Colorado River Water Conservation District’s (“CRD’s”) Notice to Contest; however, it affirmatively states that its concerns can be addressed through CWCB agreement to adopt and include the eight conditions it has been negotiating with the CWCB staff.

C. Data to be Presented to the CWCB.

1. The DWCD adopts, and incorporates herein, the Data to be presented as set forth in the SWCD Notice to Contest and the CRD’s Notice to Contest; however, it affirmatively states that its concerns can be addressed through CWCB agreement to adopt and include the eight conditions it has been negotiating with the CWCB staff.

The DWCD reserves the right to present additional concerns, facts, and data in the event that a negotiated settlement agreement cannot be reached between the DWCD and the CWCB staff, and approved by the CWCB.

The DWCD further asserts it is ready, willing and able to engage in renewed negotiations to resolve its concerns through conditions to the proposed ISF mutually acceptable to the CWCB and the DWCD.

Respectfully submitted this 28th day of April, 2015.

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP

by: 

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