



Dolores Water Conservancy District

60 S. Cactus St. • P.O. Box 1150 • Cortez, CO 81321

Phone: 970-565-7562 • Fax: 970-565-0870

Email: dwcd@frontier.net

May 16, 2017

Honorable Scott Tipton
U.S. House of Representatives, 3rd District
218 Cannon House Office Building
Washington, D.C. 20515
Via: Email

Dear Congressman Tipton,

I am writing on behalf of the Dolores Water Conservancy District (DWCD) Board to express strong support for the Water Rights Protection Act which the Board discussed at their May 11, 2017 meeting.

McPhee Reservoir, the second largest reservoir in Colorado, provides storage for the Dolores Project. Dolores Project water rights, water allocations and operations support a very tight water supply that irrigates 70,000+ acres, supports the municipal and industrial needs of local communities, including water supplies committed the Ute Mountain Ute Tribe as part of the Colorado Ute Indian Water Rights Settlement. A base pool of nearly 32,000 acre feet, the second largest allocation in the Dolores Project, is released to support the fishery below McPhee.

All who rely on McPhee Reservoir and the Dolores Project work very closely together to address periods of drought and shortage, which in 2013 limited irrigation and fishery allocations to 30% of their normal supply. In good years the object is to carry over as much water as possible to limit the impact of future shortages.

Under these circumstances, DWCD and our partners in McPhee Reservoir, cannot afford additional risk and uncertainty with regard to our underlying water supplies as we work together to avoid and manage shortage periods.

The wild card that creates the most uncertainty for underlying water rights are standards, guidelines and administrative requirements on the part of the federal land management agencies that control land use along much of the Dolores River. While these agencies are charged with managing the terrestrial assets along the River, they continue to introduce elements into their Resource Management Plans that imply potential diminishment of State decreed rights and Reclamation project water allocations.

The Water Rights Protection Act decisively addresses the elimination of risks and uncertainties related to federal taking of water. The clarification and direction provided by the proposed act will make management decisions, and work with our partners to make important water supply decisions, much more certain and secure.

McPhee Reservoir operates under a State decreed storage right. There are also state decreed water rights, including instream flows, above and below McPhee Reservoir that are integral to Dolores Project purposes and private water rights held by our constituents within the Dolores Water Conservancy District.

The coordination and beneficial use of these rights is a complex challenge, which relies heavily on prior appropriation and State administration. When the federal land management agencies put their thumb on the scale with implied federal rights to water under State administration, a cloud of perpetual risk and uncertainty looms over what is, otherwise, a well-defined water management framework.

A key aspect the Water Rights Protection Act is to remove the taking or weakening of State water rights as an option in the many federal land proceedings listed in Section 3, Article (1). Section 4 of the Act recognizes the authority of the States and directs the Secretary to coordinate with states and “impose no greater restriction or regulation, than applicable state water law.” The act also insures no interference with existing or future Reclamation contracts in Section 5 (b) and protects Indian Water Rights in Section 5 (f).

In summary, Sections 3, 4 and 5 of the Water Rights Protection Act remove the risks and uncertainties that DWCD and our partners have struggled with regarding the potential federal override of state decreed water rights; and protection of Reclamation Contracts and the Indian Water Rights Settlement. With these provisions in law, DWCD would no longer have to fear intervention by federal land management agencies in what is otherwise a known framework of water rights, contracts and compacts.

A major benefit of this clarification, is that water entities will not feel compelled to intervene in federal land management planning and policy, just to protect from potential diminishment of vested water rights and water allocations. Eliminating this risk will allow for much easier collaboration between federal agencies and water management entities.

DWCD collaborates actively with the full range of federal, state and local entities in addressing the well-being and risks associated with sensitive native fish species in the Dolores. Removing implied risks to water rights and allocations will make protection of valued resources even more robust with collaborating parties able to work together addressing common values along the Dolores River, without wariness over water.

We appreciate the opportunity to comment and offer our strong support as you advance the Water Rights Protection Act to passage.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Preston", is written over a circular stamp or seal.

Michael Preston, General Manager
Dolores Water Conservancy District