

**DISTRICT COURT,
WATER DIVISION NO. 4, COLORADO**

Montrose County Justice Center
1200 N. Grand Avenue, Bin A
Montrose, Colorado 81401-3146

**CONCERNING THE APPLICATION OF
THE UNITED STATES OF AMERICA TO
MAKE ABSOLUTE A CONDITIONAL
WATER RIGHT**
in Montrose County, Colorado.

▲ COURT USE ONLY ▲

Case Number: 01CW005

STIPULATION FOR STAY OF PROCEEDINGS

The Applicant and the undersigned Opposers, hereafter collectively the Parties, stipulate to the following:

1. By joint motion of the Parties, this matter shall be rereferred to the water judge in Water Division 4 pursuant to § 37-92-303 (2) C. R. S. 2001 within ten days after the date of this Stipulation. The joint motion shall further request that, upon rereferral of this matter to the water judge, further proceedings in this matter shall be stayed, except as provided herein, for a period of one year from the date of the order of the water judge staying proceedings, for the purpose of negotiating a settlement of the case. The joint motion shall further request an extension of the time for filing of a consultation report and recommendation by the division engineer, as required by § 37-92-302(4) C. R. S. 2001, to a date ninety days after the expiration of the stay of proceedings provided for herein. If substantial progress toward settlement is not being achieved, one or more of the Parties may request termination of the stay. If the stay is terminated, a date will be set for trial, with trial to commence no later than July 1, 2004.

2. The reserved water right for Black Canyon of the Gunnison National Park (Black Canyon Right) will have an appropriation date no earlier than the appropriation date for the Aspinall Unit water rights and will be administered as if decreed in an adjudication no earlier than the Aspinall Unit water rights. NO

3. The United States shall subordinate the Black Canyon Right to all water rights filed on or before December 31, 2001. NO

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4. The United States shall not exercise the Black Canyon Right in a manner that adversely affects the operation of or decreases the yield of the Aspinall Unit, nor shall the United States exercise the Black Canyon Right in a manner that adversely affects the historical operation of the water rights identified in paragraphs 5 and 6. MO

5. Without consent of the Uncompahgre Valley Water Users Association, the United States shall not modify historical operation of the following water rights:

a. Decree granted on May 8, 1913 in Case No. 1745 (Water District No. 62, Montrose County) for diversions into the Gunnison Tunnel and South Canal Project in an amount not to exceed 1,300 cubic feet per second;

b. Decree granted on April 21, 1942 in Case No. 2021 (Water District No. 59, Gunnison County) for storage in Taylor Park Reservoir in an amount not to exceed 111,230 acre-feet annually.

6. Without the consent of the Upper Gunnison River Water Conservancy District, the United States shall not modify historical operation of the water right defined in the decree granted on September 18, 1990 in Case No. 86 CW 203 for the refill of Taylor Park Reservoir in the amount of 106,230 acre-feet annually.

7. To the extent not covered by paragraph 3 above, the United States shall subordinate the Black Canyon Right to up to 60,000 acre-feet of annual water depletions in the Upper Gunnison River Basin drainage above Crystal Dam to water rights with priorities junior or equal to the Black Canyon Right which are exercised for beneficial use within the Upper Gunnison River Basin upon the same terms and conditions as contained in the Agreement for the Administration of Water Pursuant to the Subordination of Wayne N. Aspinall Unit Water Rights Within The Upper Gunnison River Basin dated June 1, 2000, Contract No. 00-WC-40-6590 (Aspinall Subordination Agreement). The subordination of the Black Canyon Right under this paragraph shall be limited to rights covered by the Aspinall Subordination Agreement. The total depletions to which both Aspinall Unit Rights and the Black Canyon Right are subordinated under this paragraph shall not exceed 60,000 acre-feet per annum. good

8. The subordination described in paragraph 7 shall be effected by a supplement to the Aspinall Subordination Agreement, which supplement shall be executed by the United States as quickly as possible consistent with compliance with applicable law.

9. The Black Canyon Right shall be subject to the terms of existing agreements and commitments related to the Aspinall Unit and its water rights, including but not limited to the following:

7

a. Articles of Agreement between United States of America and the Uncompahgre Valley Water Users Association dated December 3, 1904;

b. Amendatory Contract between the United States and the Uncompahgre Valley Water Users Association dated December 13, 1948;

c. Taylor Park Reservoir Operation and Storage Exchange Agreement dated August 29, 1975 (Contract No. 6-07-01-00027);

d. Contract between the United States, The Uncompahgre Valley Water Users Association, Upper Gunnison River Water Conservancy District and Colorado River Water Conservation District dated April 16, 1990;

e. Agreement among the United States, Uncompahgre Valley Water Users Association and Tri-County Water Conservancy District for the exchange of water between the Uncompahgre and Dallas Creek Projects dated June 4, 1991 (Contract No. 1-07-40-R1300);

f. Assignment of Water Rights by Upper Gunnison River Water Conservancy District to the United States of America dated March 22, 1993;

g. Memorandum of Agreement Among the Bureau of Reclamation, United States Fish and Wildlife Service, and the Colorado Water Conservation Board for Furnishing Water from the Wayne N. Aspinall Unit for the Benefit of Endangered Fishes dated August 16, 1995 (Contract No. 95-07-40-R1760); and

h. The policy of the United States that a portion of the water stored in Blue Mesa Reservoir is available for sale for decreed uses as a means of developing Colorado's entitlement of water under the Colorado River Compact (§§ 37-61-101 *et seq.*, C.R.S. 2001) and the Upper Colorado Basin Compact (§§ 37-62-101, *et seq.*, C.R.S. 2001), subject to compliance with federal requirements.

10. The United States must provide assurance, acceptable to the Opposers, that the persons designated to negotiate on behalf of the United States are authorized to bind the United States to the terms of any settlement agreed to by the Parties.

11. Not later than the commencement of negotiations, the United States shall provide to the Opposers:

a. A listing, together with a copy of, all documents, data compilations and other tangible things which support the United States' claims as stated in the Application; and,

b. The name, address and telephone number of each individual who has discoverable information relevant to the United States' claims as stated in the Application, including identification of any person who may present expert testimony in support of the United States' claims at trial.

12. During the stay of litigation, Applicant or any Opposer is free to file motions in the Water Court seeking a ruling or rulings on legal issues presented by or related to the Application.

13. The negotiations described in paragraph 1 shall commence within thirty days after the date of this stipulation.

14. On or before the date of commencement of negotiations as provided above, the Parties shall obtain approval of the Water Court of a case management order which includes a date for trial of all issues in this case which results in commencement of the trial not later than July 1, 2004.

15. The agreements of the United States contained in paragraphs 2 through 9 of this Stipulation shall survive any termination of the stay of proceedings herein provided and shall bind the United States for all purposes from the date of this Stipulation.

Respectfully submitted,

APPLICANT:

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OPPOSERS:

Colorado Water Conservation Board
Colorado State Engineer and Division Engineer
Colorado Division of Wildlife

Colorado River Water Conservation District

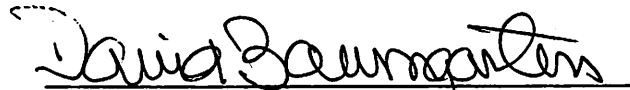
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Upper Gunnison River
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