

## **BEFORE THE COLORADO WATER CONSERVATION BOARD**

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### **IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATIONS DIVISION 2: CUCHARAS CREEK**

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#### **NOTICE OF PREHEARING CONFERENCE AND DEADLINES FOR SUBMISSIONS**

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The Colorado Water Conservation Board ("Board") has designated Deputy Attorney General Casey Shpall to act as Hearing Officer for the contested proposed instream flow appropriations on Cucharas Creek. The hearing for this matter is set for the Board's September 2009 meeting.

Pursuant to Rule 5n of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("Rules"), the Hearing Officer hereby establishes the following deadlines for written submissions, designation of witnesses and exhibits, and the date of the prehearing conference.

Written submissions should address only the following limited issues as set forth in Rules 5j(3) and 5i:

- 1) whether there is a natural environment that can be preserved to a reasonable degree with the Board's water right if granted;
- 2) whether the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made; and
- 3) whether such environment can exist without material injury to water rights.

#### **July 8, 2009: Prehearing Statements Due**

On or before 4:45 p.m. each Party shall file twenty-five hard copies of its prehearing statement with the Board. Pursuant to Rule 5n(2), a prehearing statement shall identify all exhibits, engineering data, biological data and reports or other information that the Party will rely upon at the hearing and shall contain:

- 1) a specific statement of the factual and legal claims asserted (issues to be resolved) and the legal basis upon which the Party will rely;
- 2) copies of all exhibits to be introduced at the hearing;
- 3) a list of witnesses to be called and a description of their testimony;
- 4) any alternative proposal to the proposed instream flow;
- 5) all written testimony to be offered into evidence at the hearing; and,
- 6) any legal memoranda.

By this deadline, each Party shall also deliver a copy of its prehearing statement, by hard copy or email, to all other Parties, Contested Hearing Participants, the Hearing Officer and the Assistant

Attorney General representing the Staff. The Board will not consider information, other than rebuttal statements, submitted by the Parties after this deadline except for good cause shown.

Any Contested Hearing Participant may also submit written comments by July 8, 2009. Contested Hearing Participants who submit written comments for the Board's consideration shall provide a copy to all other Parties, Contested Hearing Participants, the Hearing Officer, and the Department of Law Attorney representing the Staff.

#### **July 16, 2009: Prehearing Conference**

A prehearing conference will be held on July 16, 2009, at 2:00 p.m. in Room 310 of the State Services Building, 1525 Sherman Street, Denver, Colorado. Please proceed to the 7<sup>th</sup> floor to check in and you will be escorted to the meeting room. If you would like to participate by telephone, please contact the Hearing Officer at least 3 business days in advance of the prehearing conference.

The prehearing conference will afford the Parties the opportunity to address such issues as time available for each Party at the hearing, avoiding presentation of duplicative information, consolidation of concerns, etc. The Parties may formulate stipulations respecting the issues to be raised, witnesses and exhibits to be presented, and any other matters which may be agreed to or admitted by the Parties. At the prehearing conference, the Parties shall make known any objections to the procedures or evidence that they may raise at the hearing unless such objections could not have been reasonably determined at that time.

#### **August 17, 2009: Rebuttal Statements Due**

On or before 4:45 p.m. each Party shall file twenty-five hard copies of its rebuttal statement with the Board. By this deadline, each party shall also deliver its rebuttal statement, by hard copy or email, to all other Parties, Contested Hearing Participants, the Hearing Officer and the Department of Law Attorney representing the Staff. The Board will not consider information submitted by the Parties after this deadline except for good cause shown.

#### **September 15 or 16, 2009: Hearing Date**

The hearing for this matter is set for the Board's meeting scheduled for September 15-16, 2009, at the Steamboat Grand in Steamboat Springs, Colorado.

#### **Parties**

Parties to this proceeding are set forth in the attached Certificate of Service.

Dated this 11th day of June 2009.



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Casey Shpall

Hearing Officer

Colorado Attorney General's Office

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Denver, CO 80203

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**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATIONS  
DIVISION 2: CUCHARAS CREEK  
CERTIFICATE OF SERVICE**

This is to certify that I have duly served the within Prehearing Order upon all Parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 11th day of June, 2009 addressed as follows:

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Debby Krevitsky