

BEFORE THE COLORADO WATER CONSERVATION BOARD

IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATIONS DIVISION 7: DISAPPOINTMENT CREEK (UPPER & LOWER SEGMENTS)

ORDER GRANTING CWCB STAFF'S UNOPPOSED MOTION FOR CONTINUANCE OF HEARING AND ASSOCIATED PREHEARING CONFERENCE DATE AND DEADLINES FOR PREHEARING SUBMISSIONS

THIS MATTER comes before the Hearing Officer on the Colorado Water Conservation Board ("CWCB") Staff's unopposed motion to continue the hearing in this matter currently set for September 17-19, 2019, and to reschedule the pre-hearing conference and pre-hearing submission deadlines. The Hearing Officer, having reviewed the motion and being otherwise adequately advised, enters the following order.

Rule 5.c. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 CCR 408-2, sets out the timeline for contested Instream Flow Appropriations, and states that hearings on all contested Instream Flow Appropriations shall take place at the CWCB Board's September meeting. However, Rule 5.c. states that "when necessary, the Board may modify or delay this schedule or any part thereof as it deems appropriate." Moreover, Rule 5.n. states that the Hearing Officer shall assist the Parties in "adjusting deadlines and schedules to further the Parties' settlement efforts or for good cause shown."

Having reviewed CWCB Staff's unopposed motion, the Hearing Officer finds that adjusting the deadlines as requested will assist the Parties in their settlement efforts. CWCB Staff's motion is GRANTED, and the following deadlines in this matter are revised as follows:

Friday, September 6, 2019: Prehearing Statements from Parties and Written Comments from Contested Hearing Participants Due:

On or before September 6, 2019, each Party, including Staff, shall submit an electronic copy of its prehearing statement to all other Parties, Contested Hearing Participants, and the Hearing Officer via the email addresses included in the attached Certificate of Service. The 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:

- a) a specific statement of the factual and legal claims asserted (issues to be resolved) and the legal basis upon which the Party will rely;
- b) copies of all exhibits to be introduced at the hearing;
- c) a list of witnesses to be called and a brief description of their testimony;
- d) any alternative proposal to the proposed instream flow appropriation;
- e) all written testimony to be offered into evidence at the hearing; and
- f) any legal memoranda.

On or before September 6, 2019, each Contested Hearing Participant shall submit an electronic copy of any written comments to all other Parties, Contested Hearing Participants, and the Hearing Officer via the email addresses included in the attached Certificate of Service.

The CWCB will not consider information, other than rebuttal statements, submitted by the Parties after this deadline except for good cause shown.

Please note: neither Parties nor Contested Hearing Participants must file the twenty-five (25) copies of prehearing statements, written comments, or rebuttal statements with the board as required in Rule 5n.

Monday, September 16, 2019: Prehearing Conference at 1:00 pm

A prehearing conference will be held on Monday, September 16, 2019, at 1:00 pm on the 1st Floor, Conference Room 1F, Colorado Department of Law, Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver, Colorado 80203. You will need to go through security to enter the building, and then check in at the lobby desk. Ask the desk attendant to contact Ciera Romero at (720) 508-6299, and she will meet you in the lobby and escort you to the conference room.

If you would like to participate by telephone, you can call in at the time designated for the prehearing conference to: **1-877-820-7831** and then enter the Participant Passcode: **353775**.

Please let the Hearing Officer know by email by Friday, September 13 at 11:00 a.m. if you plan to participate by telephone.

The prehearing conference will afford the Parties the opportunity to address such issues as time limitations for each Party to present at the hearing, how to avoid presentation of duplicative information, and consolidation of concerns. 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, each Party shall identify any objections to the procedures or evidence it anticipates raising at the hearing unless such objections could not have been reasonably determined by the time of the prehearing conference.

Tuesday, October 15, 2019: Rebuttal Statements Due

On or before October 15, 2019, each Party, including Staff, shall submit an electronic copy of its rebuttal statement (including testimony, legal memoranda, and exhibits) to all other Parties, Contested Hearing Participants, and the Hearing Officer via the email addresses included in the attached Certificate of Service. The CWCB will not consider information submitted by any Party after this deadline except for good cause shown.

Wednesday - Thursday, November 20-21: Hearing

The hearing for this matter is scheduled for the CWCB's meeting November 20-21, 2019, in the Denver Metro area. The exact location and time of the hearing is yet to be determined. The Hearing Officer will issue a notice of the exact location and time of the hearing when it is so determined.

Dated this 8th day of July, 2019.

By the Hearing Officer:

A handwritten signature in dark ink, appearing to read "Amy W. Beatie", is written over a horizontal line.

Amy W. Beatie
Deputy Attorney General
Colorado Attorney General's Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6295
Amy.Beatie@coag.gov

Certificate of Service

Contested CWCB ISF Appropriations on Disappointment Creek

I hereby certify that on July 8, 2019, a true and correct copy of the foregoing ORDER GRANTING CWCB STAFF'S UNOPPOSED MOTION FOR CONTINUANCE OF HEARING AND ASSOCIATED PREHEARING CONFERENCE DATE AND DEADLINES FOR PREHEARING SUBMISSIONS was served via email to the parties referenced in the Party Status below:

Hearing Officer

Amy Beatie
Deputy Attorney General
Natural Resources & Environment Section
Office of the Colorado Attorney General
1300 Broadway, 7th Floor
Denver, Colorado 80203
720-508-6295
Amy.Beatie@coag.gov

Party Status

<u>Staff of the Colorado Water Conservation Board</u> Linda Bassi Rob Viehl Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 303-866-3441 ext. 3204 linda.bassi@state.co.us rob.viehl@state.co.us	<u>Counsel for Staff of the Colorado Water Conservation Board</u> Jennifer Mele First Assistant Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6282 jennifer.mele@coag.gov
<u>Bureau of Land Management</u> Roy Smith DOI, BLM, Colorado State Office 2850 Youngfield Street Lakewood, CO 80215-7093 303-239-3940 r20smith@blm.gov	<u>Board of County Commissioners, Dolores County, Colorado</u> Martha P. Whitmore Hockersmith & Whitmore, LLC P.O. Box 646 917 Main Street, 2nd Floor Ouray, CO 81427

	970-325-4414 marti@ouraylaw.com
<u>Western Resource Advocates</u> Robert K. Harris Bart Miller 2260 Baseline Road, Suite 200 Boulder, CO 80302 303-444-1188 bart.miller@westernresources.org rob.harris@westernresources.org	

Contested Hearing Participant Status

<u>The Southwestern Water Conservation District</u> Beth Van Vurst Fairfield and Woods, PC 1801 California Street, Suite 2600 Denver, Colorado 80202 303-894-4488 bvanvurst@fwlaw.com
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/s/ Suzanne Burdick