

BEFORE THE COLORADO WATER CONSERVATION BOARD

IN THE MATTER OF THE RULEMAKING HEARING TO REVISE RULES CONCERNING THE COLORADO INSTREAM FLOW AND NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2

ORDER RE: PROCEDURES AND DEADLINES FOR PREHEARING SUBMISSIONS

Pursuant to the Notice of Proposed Rulemaking issued by the CWCB dated March 21, 2025 (“NoPR”), the Hearing Officer hereby grants the following intervenors party status after each filed a timely Request for Party Status on May 1, 2025:

1. Colorado Parks and Wildlife
2. Western Resource Advocates, Conservation Colorado, Trout Unlimited, and the National Audubon Society (collectively “WRA et al”)
3. The Colorado Water Trust

The Hearing Officer establishes the following deadlines and procedures for written submissions and designation of witnesses and sets the date of the prehearing conference.

For purposes of this and all future orders in this matter, “file” means the document must be received electronically by the Hearing Officer and other Parties by the date and time specified herein via the email addresses included in the attached Certificate of Service.

I. Prehearing Processes and Deadlines

Friday, May 30, 2025 at 5:00 p.m.: Prehearing Statements from Parties Due

On or before 5:00 p.m. on May 30, 2025, each Party shall file a prehearing statement. Each Party must submit a prehearing statement in order to participate in the prehearing conference. 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 statement of the Party’s position(s). If submitting any amendments to the proposed Rules published with the NoPR, those amendments should be provided as an exhibit, along with a proposed statement of basis and purpose of the alternative amendments.
- b) A witness list with a brief description of each witness’s testimony and a resume for each witness who will present testimony on technical issues.
- c) A statement of any open legal questions.
- d) A statement of the relief requested.

- e) The amount of time desired for the Party's presentation at the hearing.
- f) An exhibit list and exhibits. Exhibits must be named by "Party Name" as defined below and numbered in the order presented in the exhibit list. E.g., "CWCBStaff-1." Each exhibit must be labeled separately and filed electronically as a separate file at the time of submission of the prehearing statement. All exhibits filed in this proceeding must be filed according to this process. The Party Names are defined as follows:
 - i. CWCB Staff: CWCBStaff
 - ii. Colorado Water Trust: CWT
 - iii. Western Resource Advocates, Conservation Colorado, Trout Unlimited, and the National Audubon Society: WRAetal
 - iv. Colorado Parks & Wildlife: CPW

All arguments a Party wishes to make regarding the rulemaking must be included in the prehearing statement. Prehearing statements are limited to ten (10) double-spaced pages in 12-point font, excluding the certificate of service and any exhibits.

Each Party may list no more than three (3) witnesses. All witnesses included in the Party's witness list must prepare pre-filed written testimony (see below).

Exhibits must be submitted as described above—i.e., appropriately labeled and separately submitted—at the time of filing or they may be excluded at the Hearing Officer's discretion. Please note that it is the Party's responsibility to find an appropriate manner to submit filings so that they are received by the deadline.

Monday, June 9, 2025 at 10:00 a.m.: Prehearing Conference

A prehearing conference will be held on Monday, June 9, 2025, at 10:00 a.m. via Zoom. A Zoom link will be provided in advance of the prehearing conference.

The prehearing conference will afford the Parties the opportunity to address such issues as desired time 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. Coordination of written submissions and presentations is encouraged.

At the prehearing conference, each Party shall identify any objections it anticipates raising at the hearing (unless such objections could not have been reasonably determined by the time of the prehearing conference).

Thursday, June 26, 2025 at 5:00 p.m.: Rebuttal Statements Due

On or before June 26, 2025 at 5:00 p.m., each Party shall file its rebuttal

statement. All rebuttal statements are limited to eight (8) double-spaced pages in 12-point font, excluding the certificate of service and any attached exhibits. Any exhibits shall be submitted in accordance with the same requirements as the prehearing statement outlined above. Replies in support of a prehearing statement are not authorized.

Wednesday, July 3, 2025 at 5:00 p.m.: Pre-filed Written Testimony

In addition to filing a prehearing statement and a rebuttal statement, on or before July 3, 2025 at 5:00 p.m., a Party must file pre-filed written testimony for any witness listed in its prehearing statements. Pre-filed written testimony encourages Parties to fully develop and disclose their arguments prior to the hearing. This allows the CWCB to better prepare for the hearing by reviewing the Parties' positions in advance. Pre-filed written testimony is limited to eight (8) double-spaced pages in 12-point font, excluding the certificate of service. No new exhibits may be filed with the pre-filed written testimony without approval by the Hearing Officer.

All witnesses who prepared pre-filed written testimony must be available at the time of the hearing to answer any questions the CWCB might have about such pre-filed written testimony.

II. Party Status

Party status may be lost due to a Party's failure to appear for the initial prehearing conference or any additional prehearing conferences, or for failure to file a prehearing statement. A Party that loses party status will be able to address the CWCB during the public comment period.

III. Thursday, July 17, 2025 between 1:00 and 3:00pm.: Hearing

The NoPR set the hearing in this matter in conjunction with the CWCB's July 2025 meeting, specifically between 1:00 and 3:00pm on July 17, 2025 with the in-person location listed as the SteamPlant Event Center at 220 W. Sackett Ave in Salida. 81201.

The parties may also join via Zoom video conference upon request. Please send all requests to the Hearing Officer no later than seven (7) days before the hearing.

A watch-only option will be available on YouTube. The YouTube link will be posted on the CWCB website on the day of the meeting.

More specific participation information will be provided: (1) on the CWCB's website at <https://cwcb.colorado.gov/>; and/or (2) by order of the Hearing Officer sent to the Parties prior to the hearing as needed.

In addition to other matters related to the conduct of the hearing, the Hearing Officer will determine the final time allocations for each Party to present its case after consideration of, among other things, the prehearing statements, the number of witnesses, and the pre-filed written testimony. The Hearing Officer may limit

testimony or presentation of evidence to prevent repetitive, irrelevant, or unnecessary testimony.

The Hearing Officer will issue such additional orders as are necessary to provide for any additional prehearing processes and to establish the hearing process.

The following is a summary of the schedule as set forth in this order:

Deadline for Parties' Submission of Prehearing Statements	May 30, 2025, 5:00 p.m.
Prehearing Conference	June 9, 2025, 10:00 a.m.
Deadline for Parties' Submission of Rebuttal Statements	June 26, 2025, 5:00 p.m.
Deadline for Parties' Submission of Pre-filed Written Testimony	July 3, 2025, 5:00 p.m.
Rulemaking Hearing	July 17, 2025 between 1:00 and 3:00 p.m.

IT IS SO ORDERED.

Dated this 6th day of May, 2025.

By the Hearing Officer:

/s/ Jackie Calicchio

Jackie Calicchio
Senior Assistant Attorney General
Colorado Attorney General's Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6250
Jackie.calicchio@coag.gov

Certificate of Service

**IN THE MATTER OF THE RULEMAKING HEARING TO REVISE RULES CONCERNING THE
COLORADO INSTREAM FLOW AND NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2**

I hereby certify that on May 6, 2025, a true and correct copy of the foregoing **ORDER
RE: PROCEDURES AND DEADLINES FOR PREHEARING
SUBMISSIONS** was served via email to the Parties referenced in the Party Status
below:

Parties

<u>Staff of the Colorado Water Conservation Board</u> Kaylea M. White Stream and Lake Protection Section 1313 Sherman St., Rm. 721 Denver, CO 80203 303-866-3441 Kaylea.white@state.co.us	<u>Counsel for Staff of the Colorado Water Conservation Board</u> Jen Mele Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6259 jennifer.mele@coag.gov
<u>Colorado Water Trust</u> Josh Boissevain 1317 17th Street #766 Denver, CO 80202 720-570-2897 jboissevain@coloradowatertrust.org	<u>Colorado Parks and Wildlife</u> <u>Staff Contacts:</u> Kerry Major Water Resources Coordinator 6060 Broadway Denver, CO 80216 303-291-7242 Kerry.major@state.co.us Pete Conovitz Water Rights Program Administrator 317 W Prospect Road Fort Collins, CO 80526

	<p>303-666-1365 Pete.conovitz@state.co.us</p> <p>Katie Birch Instream Flow Program Coordinator 2300 S. Townsend Ave Montrose, CO 81401 970-252-6021 Katie.birch@state.co.us</p> <p><u>Counsel:</u> Elizabeth Joyce 1300 Broadway Denver, CO 80203 720-508-6761 elizabeth.joyce@coag.gov</p>
<p><u>Western Resource Advocates, Conservation Colorado, the National Audubon Society, and Trout Unlimited</u></p> <p>John Cyran 2260 Baseline Road Boulder, CO 80302 303-746-3802 john.cyran@westernresources.org</p>	

/s/ Jackie Calicchio
Jackie Calicchio