

## BEFORE THE COLORADO WATER CONSERVATION BOARD

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### IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION DIVISION 4: EAST MUDDY CREEK

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#### NOTICE OF PREHEARING CONFERENCE & DEADLINES FOR SUBMISSIONS

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The Colorado Water Conservation Board (CWCB) has designated First Assistant Attorney General Jennifer Mele as Hearing Officer for the contested proposed instream flow (ISF) appropriation on East Muddy Creek. The hearing on this matter will be held in conjunction with the CWCB's meeting November 19-20, 2025, in the Denver Metro Area. Parties and Contested Hearing Participants will be notified of the precise time and location of the hearing once the logistics of the November meeting are determined.

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

#### **Wednesday, September 3, 2025: Prehearing Statements and Written Comments Due**

##### Prehearing Statements

On or before September 3, 2025, 5:00 p.m., each Party shall submit an electronic copy of its prehearing statement via email to the CWCB's Hearing Officer at [jen.mele@coag.gov](mailto:jen.mele@coag.gov). 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:

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

By this deadline, each Party shall also deliver a copy of its prehearing statement, by

email, to all other Parties, and the Assistant Attorney General representing the Staff, Christopher Davis.

#### Written Comments

On or before September 3, 2025, 5:00 p.m., Contested Hearing Participants may submit an electronic copy of any written comments they would like the CWCB to consider at the hearing to the CWCB's Hearing Officer at [jen.mele@coag.gov](mailto:jen.mele@coag.gov).

By this deadline, each Party shall also deliver a copy of its written comments, by email, to all other Parties, Contested Hearing Participants, and the Assistant Attorney General representing the Staff, Christopher Davis.

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

#### **Wednesday, September 10, 2025: Prehearing Conference 10:00 a.m.**

The prehearing conference will be held on September 10<sup>th</sup> at 10:00 AM via Zoom or Google Meet and will afford the Parties the opportunity to address such issues as time limitations for each Party to present 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, 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.

#### **Wednesday, October 22, 2025: Rebuttal Statements Due**

On or before 5:00 p.m., each Party shall file an electronic copy of any rebuttal statement, including testimony, legal memoranda and exhibits, via email, with the CWCB's Hearing Officer. By this deadline, each Party shall also deliver its rebuttal statement, by email, to all other Parties, and the Assistant Attorney General representing the Staff. The CWCB will not consider information submitted by any Party after this deadline except for good cause shown.

#### **Wed.-Thurs., November 19-20, 2025: Hearing Date**

The hearing for this matter is scheduled for the CWCB's meeting November 19-20, 2025, in the Denver Metro Area. The exact location and time of the hearing is yet to be determined.

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 and the number of

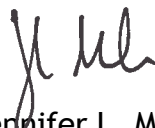
witnesses. Time allocations given will be for total presentation time, meaning the overall allocation will be applicable to both the Parties' direct presentations and rebuttal presentations. The Hearing Officer may limit testimony or presentation of evidence to prevent repetitive, irrelevant, or unnecessary testimony.

The Hearing Officer acts as hearing chair at the hearing. Parties may not cross-examine witnesses. The Hearing Officer provides remaining time at the conclusion of all direct testimony for Parties to provide rebuttal testimony based on the remaining amount of the Parties' time allocations. Board member questions to the Parties do not count against the Parties' time allocations and are not time barred in any manner.

Once all public comments and arguments have been heard, the Hearing Officer will close the hearing record, and the Board will commence deliberations. During this time, the Board will discuss the information they have received and make decisions on the proposal in public session.

During deliberations and decision-making, no comment from any Party or other members of the public will be accepted unless the Board votes to re-open the hearing to take additional information.

Dated this 6<sup>th</sup> day of August 2025.



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## Certificate of Service

### Contested CWCB ISF Appropriations on East Muddy Creek

I hereby certify that on August 6<sup>th</sup>, 2025, a true and correct copy of the foregoing NOTICE OF PREHEARING CONFERENCE & DEADLINES FOR SUBMISSIONS was served via email, to the parties referenced in the Party Status below:

#### Hearing Officer

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#### Party Status

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/s/ Sarah Glover