

BEFORE THE COLORADO WATER CONSERVATION BOARD

IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION DIVISION 6: MILK CREEK

NOTICE OF PREHEARING CONFERENCE & DEADLINES FOR SUBMISSIONS

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 Milk 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. 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, Contested Hearing Participants, 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.

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 9:00 a.m.

The prehearing conference will be held on September 10th at 9:00 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, Contested Hearing Participants, 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 has not yet been 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 6th day of August 2025.



Jennifer L. Mele
First Assistant Attorney General
Water Conservation Unit
Colorado Attorney General's Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6282
Jen.Mele@coag.gov

Certificate of Service

Contested CWCBC ISF Appropriations on Milk Creek

I hereby certify that on August 6th, 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

Jennifer L. Mele
First Assistant Attorney General
Water Conservation Unit
Colorado Attorney General's Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6282
Jen.Mele@coag.gov

Party Status

<u>Colorado Water Conservation Board</u>	<u>Colorado Parks and Wildlife</u>
Robert Viehl Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 720-854-3237 rob.viehl@state.co.us	Katie Birch Colorado Parks and Wildlife 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 katie.birch@state.co.us
Christopher Davis Assistant Attorney General Water Resources Unit Colorado Attorney General's Office 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6280 Christopher.Davis@coag.gov	Elizabeth M. Joyce Senior Assistant Attorney General Parks & Wildlife & Trust Lands Unit Colorado Attorney General's Office 1300 Broadway, 7th Floor Denver, Colorado 80203 720-508-6761 elizabeth.joyce@coag.gov

<u>Colowyo Coal Company, L.P.</u> Roger T. Williams Tri-State Generation and Transmission Association, Inc. 1100 W 116th Avenue Westminster, CO 80234 303-254-3218 roger.williams@tristategt.org Thomas Kennedy Tri-State Generation and Transmission Association, Inc. 1100 W 116 th Ave. Westminster, CO 80234 720-237-5324 thomas.kennedy@tristategt.org	<u>Bureau of Land Management</u> Roy Smith Bureau of Land Management Denver Federal Center, Building 40 Lakewood, CO 80215 303-239-3940 r20smith@blm.gov
<u>Western Resource Advocates</u> John Cyran & Bart Miller Western Resource Advocates 1401 Walnut Street, Suite 200 Boulder, CO 80302 303-444-1188 john.cyran@westernresources.org bart.miller@westernresources.org	

Contested Hearing Participant Status

<u>Carroll Davidson Partnership</u> PO Box 561498, Rockledge, FL 32956-1498 321-536-1462 tootsie1@cfl.rr.com <u>Savage Land Co.</u> John Savage PO Box 1926 Rifle, CO 81650 970-379-6745 savagejw@slcjbs.com	<u>Milk Creek Ranch LLC</u> 2996 Hanson Street Fort Myers, FL 33916 239-707-4614 mm4002a@yahoo.com
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/s/ Sarah Glover