

**BEFORE THE COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO**

**IN THE MATTER OF STAFF'S RECOMMENDATIONS FOR AN INSTREAM
FLOW APPROPRIATION ON MILK CREEK BETWEEN THE
CONFLUENCE WITH WILSON CREEK AND THE CONFLUENCE WITH
THE YAMPA RIVER, WATER DIVISION 6**

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE AND
CIRCULATE PREHEARING STATEMENTS FOR ALL PARTIES**

Colorado Water Conservation Board ("CWCB") Staff, by and through undersigned counsel, hereby file the following unopposed motion for extension of time for all parties to file their respective prehearing statements. In support of this motion, CWCB Staff advises the Hearing Officer as follows:

1. Rule 121 § 1-15(8) Certification: CWCB Staff conferred with representatives from the Bureau of Land Management, Colorado Parks and Wildlife, and Western Resource Advocates. Counsel for CWCB Staff conferred with counsel for Colowyo Coal Company, L.P. ("Colowyo"). All parties consent to the relief requested herein.

2. A hearing in this matter is scheduled to commence in conjunction with the November 19–20, 2025 Board Meeting. A Prehearing Conference has been scheduled for September 10, 2025 at 9:00am.

3. The parties are engaged in ongoing settlement discussions related to this matter. Most recently CWCB Staff met with Colowyo on August 29, 2025, to discuss the possible inclusion of terms and conditions for the recommended ISF to address Colowyo's concerns.

4. Rule 5n(1) of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("ISF Rules"), 2 CCR 408-2, provides:

The Board will designate a Hearing Officer, who shall schedule and preside over prehearing conferences and assist the Parties with procedural matters, such as setting prehearing conferences *and adjusting deadlines and schedules to further the Parties' settlement efforts* or for other good cause shown. All prehearing conferences will be scheduled and held prior to the July Board meeting.

(emphasis added).

6. Rule 5n(2) of the ISF Rules provides: “*On or before five working days before the prehearing conference*, each Party shall file 25 copies of its prehearing statement with the Board, and provide an electronic version when possible.” (emphasis added).

7. To help facilitate potential settlement between these parties all of the parties request a 6-day extension, up to and including Tuesday, September 9, 2025, to file their Prehearing Statements.

8. Because the new prehearing statement deadline would land within five working days of the prehearing conference, the parties agree to waive the requirement in Rule 5n(2) that requires the parties to circulate prehearing statements to other parties five days prior to the prehearing conference. The parties agree to circulate their prehearing statements to each other on September 9, 2025, the day before the prehearing conference. This extension would not waive the other requirements specified in Rule 5n.

9. The parties do not seek to modify any other pre-hearing deadline.

10. A proposed order has been provided along with this motion.

DATED: September 1, 2025

PHILIP J. WEISER
Attorney General

/s/Christopher J. Davis
CHRISTOPHER J. DAVIS, #58659*
Assistant Attorney General
Natural Resources and Environment Section
Attorneys for the Staff of the Colorado Water
Conservation Board
*Counsel of Record

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing **UNOPPOSED MOTION FOR EXTENSION OF TIME FILE AND CIRCULATE PREHEARING STATEMENTS FOR ALL PARTIES** upon all parties herein by email, on September 1, 2025, addressed as follows:

Hearing Officer

Jennifer Mele
First Assistant Attorney General
Water Conservation Unit
Colorado Attorney General's Office
1300 Broadway, 10th Floor
Denver, CO 80203
(720) 508-6282
jen.mele@coag.gov

Party Status

<u>Colorado Water Conservation Board:</u> Robert Viehl Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 (720) 854-3237 rob.viehl@state.co.us Christopher Davis Assistant Attorney General Water Resources Unit Colorado Attorney General's Office 1300 Broadway, 10th Floor Denver, CO 80203 (720) 508-6280 christopher.Davis@coag.gov	<u>Colorado Parks and Wildlife:</u> Katie Birch Colorado Parks and Wildlife 2300 S. Townsend Ave. Montrose, CO 81401 (970) 819-1037 katie.birch@state.co.us Elizabeth M. Joyce Senior Assistant Attorney General Parks & Wildlife & Trust Lands Unit Colorado Attorney General's Office 1300 Broadway, 10th 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	<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

Thomas Kennedy Tri-State Generation and Transmission Association, Inc. 1100 W 116th Ave. Westminster, CO 80234 (720) 237-5324 thomas.kennedy@tristategt.org	
<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 tootsiel@cfl.rr.com <u>Savage Land Co.:</u> John Savage PO Box 1926 Rifle, CO 81650 (970) 379-6745 savagejw@slcjs.com	<u>Milk Creek Ranch, LLC:</u> 2996 Hanson Street Fort Myers, FL 33916 (239) 707-4614 mm4002a@yahoo.com
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*A duly signed original is on file with the
Office of the Attorney General for the State of
Colorado.*

/s/ Christopher J. Davis
