

## **BEFORE THE COLORADO WATER CONSERVATION BOARD**

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

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#### **NOTICE OF SECOND PREHEARING CONFERENCE AND ORDER OF TESTIMONY**

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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 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.

A prehearing conference was held on September 10, 2025 at 9 am. The following parties participated in the prehearing conference: CWCB Staff, CPW, WRA, and Colowyo Coal Company. Roy Smith with BLM contacted the Hearing Officer prior to the prehearing conference to let her know he was not available to attend the prehearing conference and requested 20 minutes for BLM to present at the hearing.

Subsequent to the prehearing conference the Hearing Officer contacted John Savage pursuant to the Notice of Contested Hearing Participant Status filed by Carroll Davidson Partnership and Milk Creek Ranch LLC. Mr. Savage stated that the Carroll Davidson Partnership and Milk Creek Ranch LLC do not wish to address the Board at the hearing.

The deadline for rebuttal prehearing statements has not changed, a second prehearing conference was set, and the order at the hearing was set as follows.

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

On or before 5:00 p.m., each Party shall file an electronic copy of any rebuttal prehearing 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 prehearing 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.

## **Monday, November 3, 2025 at 2:00 p.m.: Second Prehearing Conference**

The second prehearing conference will be held on November 3<sup>rd</sup> at 2:00 PM via Google Meet and will afford the Parties the opportunity to address issues they wish to discuss prior to the hearing. The parties may wish to discuss 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.

Please use the following link or number to participate in the second prehearing conference:

[meet.google.com/hri-tyhq-saz](https://meet.google.com/hri-tyhq-saz)

Or dial +1 419-901-8499 PIN: 125 656 519#

## **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.

Time allocation and order of presentations will be as follows. Each time allotment is inclusive of rebuttal time but not time spent answering questions from the CWCB Board.

1. CWCB Staff (90 minutes)
2. WRA (20 minutes)
3. ColoWyo (50 minutes)

Rebuttal (if reserved)

1. WRA
2. CWCB Staff

CWCB Staff's 90 minutes include any presentations by BLM and CPW.

These times are subject to the amount of time allocated to this hearing, which may be limited due to other factors and constraints surrounding the CWCB's November Board meeting.

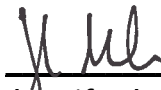
The Hearing Officer may act as hearing chair at the hearing. Parties may not cross-

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. CWCB Board member questions to the Parties do not count against the Parties' time allocations and are not time barred in any manner.

Once all presentations have been heard, the Hearing Officer will close the hearing record, and the Board will commence deliberations. During this time, the CWCB 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 11<sup>th</sup> day of September 2025.



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Jennifer L. Mele  
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Water Conservation Unit  
Colorado Attorney General's Office  
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Denver, CO 80203  
720-508-6282  
[Jen.Mele@coag.gov](mailto:Jen.Mele@coag.gov)

## Certificate of Service

### Contested CWCBSF Appropriations on Milk Creek

I hereby certify that on September 11<sup>th</sup>, 2025, a true and correct copy of the foregoing NOTICE OF SECOND PREHEARING CONFERENCE & ORDER OF TESTIMONY

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 <a href="mailto:Jen.Mele@coag.gov">Jen.Mele@coag.gov</a>
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#### 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 <a href="mailto:rob.viehl@state.co.us">rob.viehl@state.co.us</a>	Katie Birch Colorado Parks and Wildlife 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 <a href="mailto:katie.birch@state.co.us">katie.birch@state.co.us</a>
Christopher Davis Assistant Attorney General Water Resources Unit Colorado Attorney General's Office 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6280 <a href="mailto:Christopher.Davis@coag.gov">Christopher.Davis@coag.gov</a>	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 <a href="mailto:elizabeth.joyce@coag.gov">elizabeth.joyce@coag.gov</a>

<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 <a href="mailto:roger.williams@tristategt.org">roger.williams@tristategt.org</a>  Thomas Kennedy Tri-State Generation and Transmission Association, Inc. 1100 W 116 <sup>th</sup> Ave. Westminster, CO 80234 720-237-5324 <a href="mailto:thomas.kennedy@tristategt.org">thomas.kennedy@tristategt.org</a>  Aaron S. Ladd Dickinson Wright, PLLC 1125 17th St., Ste. 550 Denver, Colorado 80202 Phone Number: (303) 723-8400 <a href="mailto:aladd@dickinson-wright.com">aladd@dickinson-wright.com</a>	<u>Bureau of Land Management</u>  Roy Smith Bureau of Land Management Denver Federal Center, Building 40 Lakewood, CO 80215 303-239-3940 <a href="mailto:r20smith@blm.gov">r20smith@blm.gov</a>
<u>Western Resource Advocates</u> John Cyran & Bart Miller Western Resource Advocates 1401 Walnut Street, Suite 200 Boulder, CO 80302 303-444-1188 <a href="mailto:john.cyran@westernresources.org">john.cyran@westernresources.org</a> <a href="mailto:bart.miller@westernresources.org">bart.miller@westernresources.org</a>	

#### Contested Hearing Participant Status

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