SAVE HOMESTAKE

Evidence and legal analysis

The Complete Case for Denying Whitney Reservoir

The full public case for denying Whitney Reservoir and rejecting new or expanded interbasin diversions from Homestake Valley.

Save Homestake opposes Whitney Reservoir, new or expanded interbasin diversions from Homestake Valley, and any change to the Holy Cross Wilderness boundary.

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savehomestake.com

Edition note: This PDF and its web edition are generated from the same public source. It presents the campaign's direct case for denial while preserving the legal, project-status, privacy, and safety precision needed for an accurate public record.

The case for protection

A living valley. A line we will not cross.

Homestake is more than stored water.

Save Homestake opposes Whitney Reservoir and new or expanded interbasin diversions from Homestake Valley.

Every documented Whitney configuration would destroy the core fen complex, but the threatened landscape is larger than one parcel. Stop the project before public-land, water, recreation, and cultural losses are reduced to promises of mitigation.

Read the case in eight pages

Why we oppose Whitney and the evidence supporting denial.

Published sources checked 17 September 2026 · Field record updated 12 September 2026

Follow the project

The footprint is larger than the lake.

The utilities describe collection, storage and uphill pumping within a larger White River National Forest landscape. A pumped reservoir is not just a waterline: its power, roads, construction, and operations would spread habitat loss, noise, groundwater disturbance, and recreation impacts across the valley.

Whitney's proposed water system

1. **Collect**Nearby creeks
2. **Store**Whitney concept
3. **Move**Pumping
4. **Connect**Existing Homestake

How Whitney would change land beyond the shoreline

Power

Lines, clearing, equipment, operating noise, and a permanent industrial presence

Access

Road relocation, traffic, closures, habitat fragmentation, and lost public recreation

Groundwater

Trenches and altered drainage can damage fen-supporting water beyond the shoreline

The question

What would the complete project take from the valley during construction and operation?

Sources

- [3] Utilities: 2022 project concept
- [1] County: resource and nuisance criteria

Source numbers match the complete evidence report.

The local legal route

The commissioners can deny a noncompliant project.

The Eagle County Board of County Commissioners is the 1041 permit authority. The applicant must prove compliance with every applicable standard. Conditions are an option only when they actually bring the project into compliance; an uncured failure requires denial.

Current Chapter VI controls today. The September 15 proposal would control only after adoption and its effective date.

Current law and the September 15, 2026 proposal

Current Chapter VI	If the September draft takes effect
Strongest denial grounds • **6.04.01(17):** wetland and riparian degradation • **6.04.01(24):** County benefits versus local resource losses • **6.04.02(3):** demonstrated service-area need • **6.04.01(18), (11), (21):** habitat, recreation, and nuisance • **6.04.02(1):** efficient water use	**Clearer process, changed standards** • **104, 211(B), 401:** the Board remains Permit Authority; one failed Article 4 standard requires denial. • **109, 307, 406:** the full project, cumulative impacts, waterbodies, watershed, and fens. • **409:** dependable water supply. • **411, 423, 429:** wildlife, recreation, and nuisance. • The draft drops the current necessity and County-benefit tests and the July alternatives standard.

1994

A court reinstated Eagle County's denial of the specific Homestake II proposal on wetland and nuisance evidence. The cities' water rights did not guarantee approval of that design.

The standard

If no enforceable condition can preserve the fen and satisfy every applicable standard, the Board must deny Whitney as proposed.

Sources

- [1] Current Chapter VI
- [2] Homestake II decision, 1994
- [36] September and July county drafts; staff report

Source numbers match the complete evidence report.

Fens and function

Every studied reservoir option destroys the core fen.

Our field mapping places mature fen wetlands and the creek across more than 80% of Aurora's valley-floor property. The photographed fen complex lies inside all four documented reservoir options.

The living fen system

- Plant community
- Peat structure + processes
- Groundwater + chemistry

Fen loss matters because this is not simply wet ground. It is a groundwater-fed peat ecosystem built over thousands of years. Permanent flooding would eliminate the original peat body, hydrology, habitat, and place. Colorado research found peat physical properties still unrestored after 20 years; transplantation cannot preserve or promptly recreate the system destroyed here.

Mitigation is not preservation

Compensation elsewhere cannot preserve this same peat body, hydrology, ecological relationships, or place.

Sources

- [14] Forest Service: fen ecology
- [40] CWCB: CMC funding proposal
- [41] Scientist account
- [42] Separate 20-year research
- [37] Federal mitigation rules

Source numbers match the complete evidence report.

Water that can be delivered

Capacity is not dependable supply.

A reservoir can hold a stated volume and still face limits on filling, refilling and drought-year deliveries.

How Homestake Creek connects to Shoshone

1. Homestake Creek
2. Eagle River
3. Colorado River
4. Shoshone

1902

Shoshone

1929

Shoshone

1952

Homestake priority

Older water rights govern when Whitney may divert water from the creek and refill. The cities must disclose its reliable dry-year supply under those rules.

Whitney must disclose:

- Legal refill opportunities
- Drought-year deliveries
- Exposed acreage and duration

Falling reservoir water levels need answers

A partially empty reservoir would leave the fen gone while exposing the former valley floor, reducing habitat and recreation quality, and increasing erosion and dust concerns.

Sources

- [43] Shoshone rights
- [34] Homestake priority
- [52] DWR: administration
- [53] DWR: lawful storage
- [3] Project concept
- [14] Fen ecology

Source numbers match the complete evidence report.

Wildlife as evidence

Make the valley visible in the record.

Our four current wildlife-camera stations are on the valley floor. Each is in habitat that at least one documented Whitney option would flood; the option varies by site. Repeated records across seasons show functioning habitat and movement routes, not vacant acreage. Flooding would remove habitat while roads, lighting, traffic, and noise fragment the surrounding network. Exact locations remain protected.

Wildlife recorded in the source archive

- Elk
- Deer
- Fox
- Moose
- Mountain lion
- Lynx

What the archive shows

Eagle County's standards make the loss of this living habitat part of the approval decision.

Sources

- [1] County: wildlife criterion
- [48] USGS: camera-survey inference
- [28] Species consultation

Source numbers match the complete evidence report.

Landscape, history and rivers

Protect the whole cultural landscape.

1. Holy Cross Wilderness and public lands

A boundary change would permanently remove congressionally protected acreage to serve a new interbasin diversion. Roads, infrastructure, and noise would erode the solitude and primitive recreation the designation protects.

2. Ute and 10th Mountain history

Flooding, blasting, and road relocation could erase physical evidence and sever the landscape relationships that carry Ute and 10th Mountain history forward.

3. A living river's share

Keep enough water in Homestake Creek to sustain downstream wetlands, aquatic habitat, and the living river through dry years.

One connected landscape

Public lands, living history, recreation, habitat, and water all belong in the project footprint.

Sources

- [6] 1980 wilderness law
- [23] Camp Hale proclamation
- [25] Section 106
- [46] CWCB: instream-flow acquisitions
- [49] Colorado Constitution

Source numbers match the complete evidence report.

The decision we seek

Deny Whitney. Protect Homestake.

Front Range growth does not create a claim on Western Slope water. The durable path is conservation, reuse, system efficiency, and enforceable demand limits, not another interbasin diversion.

1. **Prove the need.**

   Separate existing demand, growth, reserves and storage constraints.

2. **Compare options that meet the need with less harm.**

   Use equivalent reliability, cost and environmental assumptions.

3. **Disclose the complete project.**

   Show infrastructure, operating rules, groundwater effects and lawful water availability.

4. **Measure what would be lost.**

   Count the permanent loss of ancient peat, connected habitat, a living creek, public access, quiet, and cultural landscape.

5. **Make enforceable findings.**

   Deny approval when the record cannot support the required findings.

Our position

No Whitney Reservoir. No new or expanded interbasin diversions. Protect Homestake Valley.

Read the complete edition for the legal analysis and all 54 source entries. We owe our children and future generations an intact Homestake Valley.

Sources

- [1] County approval criteria
- [17] Colorado Regulation 87
- [18] Federal alternatives standard
- [39] Forest Service special-use application rules

Source numbers match the complete evidence report.

Detailed evidence and legal analysis

Published sources checked through September 17, 2026 | Field record updated September 12, 2026

Executive position

Save Homestake opposes Whitney Reservoir and every new or expanded interbasin diversion from Homestake Valley. We call on decision-makers to deny the project and protect the valley for our children and future generations. This report presents the evidence behind that position and the questions Aurora and Colorado Springs must answer.

One central impact is clear in all four studied reservoir options: our field mapping places mature fen wetlands and the creek across more than 80% of Aurora's valley-floor property. The fen complex we photographed is inside all four documented reservoir options, and permanent flooding would destroy it.[15,37] The threatened landscape extends beyond that parcel through roads, access, infrastructure, altered hydrology, recreation, wildlife, cultural resources, and wilderness impacts across the surrounding public lands.

Save Homestake seeks denial of Whitney in every configuration. A conditional water right does not authorize a dam, pumping system, road, or wetland destruction. Decision-makers must test the full project against every applicable standard and the evidence.[1,2]

Front Range growth does not create a claim on Western Slope water or justify permanently transforming this valley. Conservation, reuse, system efficiency, and durable demand limits must carry the municipal planning burden. Every proposed dam, diversion, road, and wetland impact requires its own approval.

Whitney must satisfy five core requirements:

1. A precise, current demonstration of need that distinguishes average annual supply, dependable drought yield, emergency reserves, and storage capacity.
2. A complete public-land project description, including necessary collection works, pumps, pipelines, electricity supply, Forest Service road and access changes, construction areas, recreation effects, cultural resources, wilderness impacts, and operating rules.
3. An independently reviewable comparison with feasible conservation, reuse, system optimization, different sites, and smaller or phased projects.
4. Proof that wetland, stream, wildlife, cultural, recreation, and community protections will be met, including credible and enforceable mitigation with fully disclosed failure risks.
5. Written, evidence-based findings for each applicable criterion. Conditions must secure compliance rather than postpone the essential question until after irreversible disturbance.

1. The projects and the record

Four projects and records

Four projects and records

Project	Meaning	Why it matters
Existing Homestake, often called Homestake I	Operating reservoir, diversions, and transmountain delivery system serving Aurora and Colorado Springs.	Existing operations define the baseline. Any expansion requires its own permits and approvals.
Historical Homestake II	Earlier expansion proposal whose county permit denial was upheld in litigation.	The record provides powerful local precedent for denial based on wetlands and nuisance impacts.
Whitney Reservoir	A proposed lower-Homestake storage and collection concept with pumpback to existing Homestake.	A future Whitney application must identify the selected design and every indispensable facility and impact.
Wild Horse Reservoir	Aurora's separate proposed storage project in Park County, connected to the existing Otero system.	Wild Horse is a separate proposed storage project. Its operation and relationship to Homestake sources must be disclosed.

The utilities' March 2022 factsheet describes four Whitney storage concepts ranging from 6,850 to 20,000 acre-feet, with contemplated collection from Peterson, Fall, and Resolution creeks and pumping to existing Homestake. July 28, 2026 reporting states that Aurora had not selected a final dam configuration, storage volume, or road alignment.[3,4]

The 1998 Eagle River joint-use framework contemplated 20,000 acre-feet of average annual yield for East Slope participants, 10,000 acre-feet of firm dry-year yield for West Slope participants, and 3,000 acre-feet of storage for Climax. Those figures measure different benefits within the broader cooperative project. Whitney's annual depletion and final combination of facilities remain undetermined and subject to local, state, and federal permitting.[5]

Historical legal milestones

Historical legal milestones

Period	Established milestone	Legal significance
1952 to 1967	A 1961 Supreme Court decision recognized a September 22, 1952 priority for the integrated Homestake/Eagle-Arkansas plan; a later opinion identifies the original 1962 decree. Existing Homestake was completed in 1967.	Priority, adjudication, ownership, and operating authorization are separate legal questions.
1980	Congress designated Holy Cross Wilderness with express Homestake provisions.	The 1980 Act contains express Homestake provisions; any proposed work must meet those terms and applicable wilderness protections.
1980s to 1994	Eagle County rejected Homestake II; in 1994 the Colorado Court of Appeals	Environmental and nuisance evidence can support a consequential county

Period	Established milestone	Legal significance
	reinstated the County's denial.	decision.
1992	The Tenth Circuit upheld the federal Corps permit against NEPA and Clean Water Act challenges. It did not decide Eagle County's separate land-use permits.	In 1994, the Colorado Court of Appeals held that Eagle County's original denial should have been upheld and confirmed that water-diversion projects within Eagle County remain subject to county permitting.
1998	East and West Slope entities adopted a joint-use framework.	Each facility contemplated by the joint-use framework still requires public permitting.
2021	The Forest Service approved limited test drilling to study the ground.	The 2021 authorization covered limited test drilling only.
2023	Division 5's published resume includes an application concerning Homestake conditional rights, case 23CW3138.	The 2023 resume records an application concerning conditional rights in case 23CW3138. Final rights depend on the resulting water-court decree.
2026	Whitney remains unresolved, and separate county rule amendments are pending.	No Whitney construction approval exists. Any future application must be evaluated under every governing county standard.

Water rights and project approvals

Colorado evaluates diligence for a conditional right within an integrated water-supply system. In Vail Valley Consolidated Water District v. City of Aurora, the Colorado Supreme Court applied that principle to Homestake. Under the accessible 2025 statute, reasonable diligence turns on the complete statutory inquiry rather than permit status alone.[10,11]

The current decrees and related proceedings must establish every authorized diversion point, storage location, volume, season, exchange, and use.[9]

Water court governs decree compliance, legally cognizable injury, and water-right questions. Separately, the Eagle County Board of County Commissioners is the County's 1041 Permit Authority. A water decree or another agency approval does not replace this independent county approval.[1,2,11]

2. Eagle County: the strongest established local route

Who decides and what must be proven

Chapter VI is the 1041 code in force today. The Eagle County Board of County Commissioners is the Permit Authority. The planning commissions make recommendations on the pending rule change; they do not decide a future Whitney permit. The applicant bears the burden of proving compliance with every applicable standard.[1]

Under 6.03.10(2), (3), and (5) and 6.04.01, approval requires proof that the project complies with every applicable criterion. The Board may impose a condition only when it can find that the condition ensures compliance. If the Board cannot make the required compliance finding, state law requires denial.[1,2]

The strongest current-code grounds for denying Whitney

Current Chapter VI standards and the Whitney record

Current provision	Why it is a strong denial ground
6.04.01(17), wetlands and riparian areas	Every studied option destroys the core fen. Structure, function, acreage, species, and wetland-to-upland transition are express factors.
6.04.01(24), County benefit versus local loss	Benefits to Eagle County and its citizens must outweigh local natural and recreational resource losses.
6.04.02(3), demonstrated necessity	Whitney must be necessary to meet development and population demands in the service area.
6.04.01(18), wildlife and habitat	Flooding removes habitat; roads, power, lighting, and operations fragment movement routes and food webs.
6.04.01(11), (21), recreation and nuisance	Noise, dust, traffic, light, closures, and lost scenic recreation are express factors. Homestake II sustained noise, dust, tunnel, recreation, and scenery findings.
6.04.02(1), efficient use of water	Whitney must emphasize conservation, recycling, and reuse.

The strongest present case: Whitney cannot satisfy the wetland standard because every studied reservoir footprint destroys the same ancient fen system. A condition can govern construction practice; it cannot preserve a fen placed beneath a reservoir. The benefits, necessity, habitat, recreation, nuisance, and efficiency standards independently reinforce denial.

Homestake II's legal force

In *City of Colorado Springs v. Board of County Commissioners*, 895 P.2d 1105 (Colo. App. 1994), the court reinstated Eagle County's denial because competent testimony supported findings of substantial wetland destruction, including rare-moss loss, and noise, dust, and tunnel disruptions degrading recreation and scenery. The cities' water rights did not guarantee approval of that design.[2]

The ruling is directly useful here: it validates wetlands and nuisance as county concerns, recognizes benefit-versus-resource-loss balancing, and holds that denial of one noncompliant proposal does not extinguish the underlying water rights. The Board's findings should tie each material fact to the exact current criterion and explain why mitigation or conditions cannot cure the failure.

Build the denial record: Delineate the fen and groundwater system; map every required facility and impact; quantify dependable yield and demand; document habitat and recreation use; model nuisance and drawdown; and compare binding County benefits with permanent local losses.

The pending amendment opportunity

The latest county-linked text is the **September 15, 2026 draft** prepared for the September 23 joint Planning Commission recommendation hearing. The Board's adoption hearing is listed for October 27. County staff recommends approval of the rule change on the condition that the replacement take effect with the re-adopted ECLUR and that current Chapter VI remain fully effective until then. The broader ECLUR adoption hearing is listed for November 3.[12,13,36]

Strongest grounds if the September 15 draft takes effect, part 1 of 2

Proposed provision	Force in a Whitney decision
104, 211(B), and 401	Section 104 keeps the Board as Permit Authority. For Board permit applications, any failed Article 4 standard requires denial; conditions must establish full compliance.
109: Project, Impact, Municipal water project, Waterbody	All required components and direct, indirect, and cumulative effects count. Wetlands remain protected outside federal jurisdiction.
307 and 406	Fen, groundwater, hydrograph, downstream, and watershed evidence must show no significant wetland deterioration.

Strongest grounds if the September 15 draft takes effect, part 2 of 2

Proposed provision	Force in a Whitney decision
409	Supply must be adequate in quantity, quality, and dependability; that evidence can test dry-year yield and refill.
411 and 412	Wildlife, habitat, and plant communities cannot significantly deteriorate, and CPW consultation is required.
423, 424, 429, and 431	Recreation, historic and archaeological resources, nuisance, and visual quality remain approval standards.
434(D)	Whitney must emphasize efficient water use, including recycling and reuse; unlike current §6.04.02(1), conservation is not expressly named.

What the September draft removes

Sections 303(D) and 331(B) request need information, but Article 4 omits the current necessity and County-benefit-versus-local-loss tests. The July alternatives analysis and least-adverse standard are also absent.

Save Homestake position before adoption: restore enforceable necessity, County-benefit-versus-resource-loss, least-adverse-alternative, and conservation standards; name fens and supporting groundwater in §406. Preserve Article 4 protections and public participation in every discretionary FONSI and County-created ECLUR substitute process.

3. Wetlands and fens: every current concept destroys the core system

Our field mapping places mature fen wetlands and the creek across more than 80% of Aurora's valley-floor property. The fen complex we photographed is inside all four documented reservoir options. Permanent flooding under any option would destroy the existing fen and replace it with reservoir habitat.[3,15]

Fens are groundwater-supported, peat-forming systems. Their ecological function depends on groundwater delivery, chemistry, saturation, peat structure, and connection to the surrounding landscape. EPA reports that natural fen formation can require up to 10,000 years, while federal compensatory-mitigation rules identify fens as difficult to replace. The applicant must delineate the jurisdictional acreage and quantify downstream hydrologic effects.[14,37]

The core test: Any created wetland or transplant plan must demonstrate replacement of the groundwater, peat, habitat, and landscape functions destroyed by flooding, excavation, groundwater interception, or altered drainage. That showing must address recovery time, failure risk, long-term management, and the water consumed or redirected by the replacement work.

Any proposed fen mitigation must demonstrate durable functional replacement for this specific system and impact, including far more than short-term plant survival.[15]

Why fen transplantation cannot preserve Homestake

Whitney would destroy an intact fen. Colorado research found peat physical properties still unrestored after 20 years; transplantation cannot preserve or promptly recreate the original peat body and hydrology.[42]

Functional equivalence requires proof of the functions lost, the functions reliably replaced, the duration of the loss, and the consequences of failure. The record must address groundwater, peat, ecology, and recovery time through complete monitoring results, methods, success criteria, maintenance history, reference-site comparisons, and agency findings.

Damming Homestake Creek and exporting its water would alter downstream flow volume and timing. The applicant must quantify the resulting changes to sediment transport, temperature, floodplain connectivity, aquatic communities, and hydraulically connected fens. Where altered hydrology dewaters and oxidizes peat, the degradation is lasting on a human timescale. Mitigation cannot reverse destruction of the original system. Federal project-effects standard

Evidence the applicant must provide

- A complete wetland and fen inventory covering every alternative, ancillary work area, groundwater source area, and construction access route.
- Peat depth and stratigraphy, vegetation and species surveys, water chemistry, seasonal water levels, and long-term monitoring that captures seasonal and annual variability.
- A groundwater model covering dam cutoff works, tunnels, trenches, reservoir stages, road embankments, falling water levels, and effects beyond the flooded area.
- An alternatives analysis that prioritizes avoidance, then minimizes unavoidable impacts before calculating compensation.
- A mitigation performance table: function, baseline, predicted loss, replacement location, time to recovery, uncertainty, enforceable trigger, responsible party, and secured funding.

State and federal water protection

After *Sackett* narrowed federal wetland jurisdiction, Colorado's Regulation 87 established a state framework for dredge-and-fill impacts. Applicability, exemptions, and transition rules turn on the project's permit history. Individual authorization addresses fundamental need, a no-action alternative, practicable alternatives, and circumstances prohibiting discharge where a qualifying less damaging alternative exists. [16,17]

For waters subject to federal jurisdiction, the Section 404(b)(1) guidelines in 40 C.F.R. 230.10 prohibit discharge when a practicable, less environmentally damaging qualifying alternative exists. The analysis must address water dependency,

project purpose, and practicability. Corps public-interest review also recognizes water conservation and demand reduction. [18,19]

Requested decision:

- Establish jurisdiction and exemptions in writing for every component.
- Require the applicable alternatives demonstration before accepting a compensation plan.
- Obtain any pre-May 25, 2023 application, permit, or jurisdictional determination and determine which transition rules apply.
- Document how the authorization protects water-right administration while enforcing dredge-and-fill requirements.[17]

Federal mitigation rules expressly identify fens as difficult to replace and recognize circumstances where suitable practicable compensation is unavailable and a permit cannot issue. Colorado's rule likewise gives fens specific difficult-replacement treatment. Loss of function and compensation feasibility are therefore operative permitting issues. [37,17]

4. Growth must not come at the Western Slope's expense

Front Range growth does not justify Whitney or another interbasin diversion. Water planning should prioritize conservation, reuse, system efficiency, and durable demand limits instead of transferring permanent ecological loss to the Western Slope. An average annual water target is particularly inadequate where the stated objective is drought reliability because water available mainly in wet years does not provide dependable supply through consecutive dry years.

Require a common comparison using the same population forecasts, committed service obligations, conservation and reuse assumptions, enforceable demand limits, climate sequences, reliability metric, and planning horizon. Show the incremental benefit of Whitney after all already-funded and reasonably foreseeable system improvements. Identify which risks it would reduce and which would remain, including outages at shared tunnels, power-dependent pumping, and legal limitations on diversion.

Alternative portfolios and required demonstrations, part 1 of 2

Alternative or portfolio	What must be demonstrated
Conservation and outdoor demand management	Additional achievable savings beyond the adopted baseline, cost, participation, durability, and seasonal timing
Reuse and existing-system improvements	Legally reusable supplies, treatment and conveyance capacity, water quality, energy, and incremental yield

Alternative portfolios and required demonstrations, part 2 of 2

Alternative or portfolio	What must be demonstrated
Different storage or managed aquifer options	Suitable geology/site, storage and recovery losses, permits, treatment, and actual usable yield
Smaller or phased Whitney concepts	Whether reduced footprint materially avoids impacts while meeting a defined need
Other sites or cooperative portfolios	Comparable reliability and full environmental costs, including agricultural and community harms
No action with adopted investments	The quantified shortfall remaining after adopted investments

The legally required alternatives analysis should compare conservation, reuse, existing-system improvements, different storage, cooperative portfolios, and no action under common assumptions. It must account for geotechnical feasibility, return-flow obligations, and effects on agricultural communities so protecting Homestake does not simply shift severe harm elsewhere.

Aurora distinguishes projected demand from its desired emergency reserve. Whitney's contribution to each must be quantified after conservation, reuse, and aquifer storage.[20,21]

Measure conservation by dependable basin savings

Conservation planning must distinguish gross diversions from consumptive depletion because return flows may be relied on by other users. Legally transferable water depends on actual basin savings, seasonal availability, enforceability, and protection against injury.[22]

The persuasive comparison is cost per dependable additional acre-foot with environmental and community costs included. Use measured outdoor demand, actual distribution losses, documented reuse potential, and current service-area projections.

Shoshone: a real senior-right constraint on supply

Homestake Creek feeds the Eagle River, which joins the Colorado at Dotsero upstream of the Shoshone plant in Glenwood Canyon. The River District identifies Shoshone rights appropriated in 1902 and 1929, totaling up to 1,408 cubic feet per second, with water returned after generation. A valid downstream senior call can constrain affected junior upstream diversions. The extent of that constraint is governed by water availability, administration, decree terms, and applicable agreements.[43,52]

Whitney's supply model must incorporate the Shoshone decrees, water availability, administration, and applicable agreements to determine when diversion or refill would be constrained and what ecological flows would result.[53]

The permanent-protection effort is concrete. On November 19, 2025, CWCB accepted a perpetual interest for instream-flow use; on November 20, the co-applicants filed Division 5 case 25CW3177 to add that use alongside hydropower. The November 24 official announcement identifies water-court approval, financing, an instream-flow agreement, and Public Utilities Commission approval as conditions that remain before closing.[44]

The River District's May 22, 2026 update reports approval of a $40 million federal award and $97 million secured toward the $99 million purchase, with federal award contracting still ahead.[45]

March 2026 reporting describes a temporary call-relaxation agreement that allowed additional storage, including at Homestake. Whitney's supply model should distinguish temporary operating agreements from long-term supply assumptions.[51]

Requested showing:

- Model Whitney's incremental dependable supply with Shoshone and other governing calls, applicable relaxation/outage agreements, environmental release requirements, drought sequences, and system constraints fully represented.
- Show the effect of the proposed Shoshone instream-flow use under the terms actually sought or decreed.
- Apply senior rights according to their lawful historical exercise.
- Compare alternative portfolios under the same conditions.

Evaluate falling reservoir water levels

The published Whitney proposal collects water and pumps it uphill to existing Homestake. Its proposed storage capacity and average annual yield leave fill frequency, low-water elevations, and exposed acreage during dry periods unresolved. A complete operating model must disclose minimum-pool commitments, filling frequency, and falling water levels.[3]

Prolonged low water exposes large areas of reservoir bed, affecting habitat, recreation, erosion, and dust. Evaluate Whitney's drought benefits alongside these operating impacts using enforceable minimum-pool commitments and dry-year modeling.

The original groundwater-fed peat ecosystem depends on hydrologic structure that flooding, excavation, and altered groundwater permanently disrupt. Reservoir drawdown would leave those ecological functions lost or impaired.[14,42]

Required operating output and why it matters, part 1 of 2

Required operating output	Why it matters
Daily or otherwise adequately resolved reservoir elevations and storage	Capture pumping cycles, seasonal low water, and consecutive dry years
Exposed-bed acreage and duration by elevation and season	Show the real landscape, habitat, recreation, and possible erosion or dust effects

Required operating output and why it matters, part 2 of 2

Required operating output	Why it matters
Minimum-pool assumptions and enforceable operating limits	Distinguish a promised scenic lake from the actual proposed operating regime

Required operating output	Why it matters
Annual deliveries, drought reliability, refill frequency, and recovery time	Separate useful water supply from storage capacity and average targets
With-project and without-project groundwater and stream conditions	Determine harm to fens and streams inside and outside the area the reservoir would flood

Whitney's public modeling must show the full operating range, including low-water conditions, with the elevation and season stated for every view.

5. The whole physical project: pumps, power, roads, and noise

The utilities describe pumping Whitney water uphill to existing Homestake. A complete public design must disclose motor ratings, power-line voltage, overhead or buried routing, substations, standby generators, operating schedules, and noise levels.[3]

Complete project footprint: Whitney's full footprint includes every industrial component required to capture, pump, power, and export its water. The design inventory should identify each component and its construction and operating effects, including groundwater disturbance from road relocation and pipeline trenches beyond the reservoir edge.

Physical project components, evidence to obtain, and impacts to evaluate, part 1 of 2

Component	Required project disclosure	Why it matters
Pump station	Flow/head curves, motor sizing, duty cycle, structure, lighting, maintenance access	Operating noise, vibration, lighting, and maintenance would disturb quiet recreation and wildlife beyond the structure.
Electricity supply	Provider study, routing alternatives, voltage, easements, buried/overhead design	Clearing and easements would fragment habitat and alter scenery; wildfire and outages add safety and reliability risks.
Backup generation, if proposed	Fuel, hours, storage, emission controls, emergency purpose	Fuel storage and operation would add noise, emissions, spill, and wildfire risks.
Pipelines and tunnels	Alignments, depths, dewatering, blasting, spoil handling	Dewatering and trenches can intercept fen-supporting groundwater; blasting and spoil disturb streams and habitat.
Roads and work areas	Permanent/temporary footprint, traffic schedule, closures, reclamation	Traffic and closures displace public recreation; new or relocated roads fragment habitat and increase dust and collision risk.

Physical project components, evidence to obtain, and impacts to evaluate, part 2 of 2

Component	Required project disclosure	Why it matters
Reservoir and dam	Flooding and water-level maps, operating curve, hazard analysis	Flooding would permanently replace the fen; drawdown would expose banks; altered releases would affect downstream habitat and water quality.

These are indispensable project components. Their groundwater, habitat, recreation, noise, safety, and public-land costs belong to Whitney itself, not to a secondary list. Sound analysis should include existing ambient measurements and modeled project levels at recreation, habitat, and property receptors, including low-frequency or tonal character and nighttime operation. Power analysis should compare route and equipment alternatives and document their visual and physical effects.

Cumulative disruption includes construction seasons, haul traffic, closures, falling water levels, lighting, maintenance, and diminished recreation quality.

6. Protect Holy Cross Wilderness with a precise public-land record

Save Homestake opposes any change to the Holy Cross Wilderness boundary. A boundary change would permanently remove acreage from congressionally protected wilderness to accommodate a new interbasin diversion. National Forest access, recreation, wilderness character, and the living landscape are central public interests integral to Whitney's complete footprint. Every road relocation and facility affecting those lands must be mapped and justified before approval.

The 1980 Colorado Wilderness Act contains express Homestake language in Section 102(a)(5), preserving specified water-right development and addressing agreed modifications or exchanges. Section 110 addresses activities outside wilderness that may be seen or heard within it. Any development authority must be tested against the project's actual footprint and the statute's precise terms.[6]

Required legal showing:

- Require a georeferenced overlay of all facilities against the statutory wilderness boundary and the historic project/right-of-way records.
- Require a written explanation of exactly which statutory exception authorizes each affected facility and operation.
- No Holy Cross Wilderness boundary change should be accepted. If proponents seek one, they must identify the exact congressional action and disclose every acre and facility affected.

Noise, visual, access, and habitat effects remain subject to county, land-management, and other approval standards where Section 110 applies. Each affected facility must have a specific federal land authorization, and any grandfathered right must match its documented scope.

The Forest Service's 2021 decision authorized test drilling to study the ground, not reservoir construction. Any later reservoir or infrastructure proposal must secure its own authorization on a complete public record.[8]

7. Ute cultural interests, Camp Hale, and historic resources

The Camp Hale-Continental Divide National Monument proclamation recognizes Ute connections, military history, and water infrastructure within this nationally significant landscape. Any Whitney proposal must map its overlap with monument lands and demonstrate consistency with the proclamation and governing protections.[23]

Ute people lived in and traveled through this mountain landscape long before the creation of Colorado, and the valley's military landscape reflects the 10th Mountain Division's training history. Their meaning is rooted in place. Flooding, blasting, and road relocation can erase archaeological evidence and sever the relationships among Ute travel, the creek and terrain, and the Camp Hale training landscape. Any Whitney application must identify and protect archaeological sites, traditional cultural places, historic landscapes, and military resources through meaningful Tribal consultation, archival research, and field survey.[24]

Field photography documents public-road and recreation conditions across the former Camp Hale military training landscape. Public materials generalize sensitive locations and remove embedded location metadata.

Required Section 106 process: Agencies must define the area of potential effects broadly enough to include access, setting, hydrologic change, construction, and other project-caused effects on eligible historic properties. Section 106 requires identification of historic properties and consultation with Tribal governments and preservation officials before an irreversible decision. Unlisted properties may still qualify for the National Register.[25]

Request an adequate survey of all relevant footprints and an area of potential effects justified by the undertaking. Request the basis for eligibility determinations, treatment of cultural landscapes, consideration of avoidance, and the consultation record to the extent it can legally be disclosed. Archaeological discovery and human-remains procedures should reflect the applicable land ownership and legal requirements.

Any Whitney approval process must include meaningful Tribal consultation while protecting site coordinates, burial locations, and confidential cultural information.[25,26]

8. Wildlife and the living river

Wetland and creek changes affect habitat connectivity, breeding areas, aquatic conditions, and wildlife movement. The record must include seasonal species observations, habitat mapping, movement routes, mortality risks, and project-caused changes to flow, temperature, and access.

The community wildlife archive and the evidence map

The campaign's four current wildlife-camera stations are on the valley floor. Each lies within the flood zone of at least one documented Whitney option. Dated records across seasons show that the valley floor is functioning habitat and a movement network, not vacant acreage. Flooding would remove habitat while roads, traffic, lighting, and noise fragment the surrounding connections wildlife relies on.

The archive documents where and when species were observed, including feeding, animals with young, and repeated seasonal use. Those facts directly bear on current county criterion 6.04.01(18). Application requirements specifically address wildlife, habitat, migration routes, calving areas, and seasonal range. The code covers common wildlife as well as protected species.[1]

Valley Floor 1 documents repeated moose use along a creek-parallel movement route on the valley floor. Public materials use this generalized alias and withhold the precise camera position. These records support protecting the movement route and incorporating it into project-wide habitat and connectivity analysis.

The 2026 Canada lynx image and surrounding habitat demand targeted surveys and Endangered Species Act consultation.

Agencies must overlay documented wildlife observations against every reservoir and infrastructure alternative.

Construction corridors, pumping, noise, and flooding extend the affected area beyond the reservoir edge. Analysis must address habitat functions, displacement, movement barriers, construction traffic, lighting, and loss of cover or forage. Evaluate avoidance, movement connectivity, and protection of existing habitat before generic acreage replacement.

Public maps and captions must continue to generalize all camera positions. Exact coordinates, deployment records, source files, and concept intersections should remain in the controlled evidence record for agencies and other authorized experts.

Listed species and downstream aquatic life

Damming the creek and taking water out would change how much water flows downstream and when. It affects aquatic habitat, sediment transport, temperature, floodplain connectivity, and hydraulically connected fens. Project-specific monitoring, groundwater analysis, and comparative hydrographs must quantify the location and magnitude of those effects. Where hydrologic change dewaters and oxidizes peat, the resulting degradation is lasting on a human timescale.

The 2026 Canada lynx critical-habitat rule creates a major federal wildlife-protection issue because its Colorado unit includes portions of Eagle County and White River National Forest. Section 7 analysis should compare every documented Whitney footprint and infrastructure corridor against the designated unit and assess listed species wherever federal action may affect them, including areas outside designated critical habitat.[27,28,54]

Whitney's effects on downstream endangered-fish habitat require a project-specific depletion calculation. Any coverage under the Upper Colorado recovery program must disclose the actual volume, season, conditions, and additional actions required. [38]

Existing Eagle River watershed planning documents the effects of reservoirs and transmountain diversions and provides a baseline for measuring Whitney's additional seasonal harm. [29]

The applicant must compare with-project and without-project hydrographs at ecologically meaningful locations and measure changes to peak flows, summer and winter low flows, consecutive dry years, temperature, groundwater connectivity, and aquatic habitat.

9. Climate and Colorado River reliability

The 2024 Colorado Climate Assessment reports that, across Colorado's major basins, 21st-century April 1 snow water equivalent has been 3 to 23 percent lower than 1951 to 2000 averages and annual streamflow since 2000 has been 3 to 19 percent lower. The assessment identifies mid-century scenarios with 5 to 30 percent reductions in spring snowpack and annual streamflow, earlier runoff, and higher evaporative demand. These trends make historical-average yield inadequate for a project intended to serve future decades. [30]

Whitney's operating record must disclose climate-stressed and multi-year drought scenarios, legal operating assumptions, wet-year refill limits, evaporation and conveyance losses, and recovery after drought or infrastructure failure. Conservation, reuse, system efficiency, and demand limits must be modeled under the same assumptions. Supplies that share the same snowpack, basin, tunnel, or power system can fail together. A new interbasin diversion is not a sustainable response to these conditions.

Colorado River curtailment and long-term availability are material risks that must be included in the reliability analysis, priced honestly, and tested under current assumptions and sensitivity scenarios. Save Homestake will not accept irreversible local loss under any modeled outcome.

A living river's share

A living river deserves an enforceable share of its own water sufficient to sustain its ecological functions.

Colorado's Constitution places unappropriated natural-stream water in public ownership and uses appropriation dates to determine priority. Colorado's instream-flow program can protect rivers within that system, including through acquired senior rights. [49], [47], [50]

Voluntary acquisition, donation, or leasing of existing rights to CWCB can give rivers enforceable instream protection with senior priorities. The protected reach and season follow each right's location, historical use, amount, and approvals. [46], [47]

Shoshone shows how senior rights can serve durable environmental protection. Senior-right acquisition and partnerships with CWCB and conservation organizations offer a path to protecting Homestake alongside existing habitat and water-quality laws.

10. Federal environmental and land-use requirements

NEPA requires federal agencies to evaluate the significant environmental effects of the proposed action itself. Indirect effects may fall within NEPA even when they occur later or outside the project area. NEPA does not extend to separate projects outside the agency's regulatory authority merely because their effects are foreseeable. [31], [32]

When related facilities are interrelated, close in time and place, and within the agency's authority, the agency must determine whether they form a single project. The Whitney record should therefore identify the complete proposed action and every connected component that is part of it. Design drawings, contracts, operating models, common purpose, and engineering necessity can establish those connections.

The Forest Service's special-use screening rules require compatibility with the public interest and technical and economic feasibility. The Forest Service must evaluate each facility under the requested authorization, existing instruments, and the White River National Forest plan. [39]

County necessity standards, state permitting, and applicable Corps water-supply policy provide additional grounds for rejecting Whitney.

The official Colorado Springs record confirms an Otero connection arrangement, and Aurora describes Wild Horse as storage resilience. The operating assumptions and source-specific diversions for each project must be disclosed and compared. [21], [33]

11. Grounds for denial

- **Water rights do not authorize construction.**

  The cities' water rights do not resolve the separate land-use, public-land, wetland, wildlife, recreation, and cultural-resource decisions Whitney requires.

- **Front Range growth creates no claim on Western Slope water.**

  Conservation, reuse, system efficiency, and durable demand limits must be compared before another interbasin diversion is considered.

- **Every studied option destroys the core fen.**

  A smaller reservoir still destroys irreplaceable peat, groundwater relationships, and wetland habitat. Transplantation and compensation elsewhere cannot preserve the original fen.

- **The project is larger than its shoreline.**

  Roads, pumps, power infrastructure, construction, operating noise, recreation displacement, and added disturbance belong in the project footprint.

- **Capacity is not dependable supply.**

  Whitney's benefit must withstand dry-year delivery, refill, evaporation, and Shoshone senior-right modeling, with actual reservoir levels disclosed.

- **The valley is active wildlife habitat.**

  The camera archive documents repeated wildlife use of valley-floor habitat threatened by documented Whitney options. Exact camera locations remain protected.

- **Promises of mitigation are not protection.**

  Protection measures must be measurable, funded, enforceable, and capable of preventing harm before disturbance begins. Unresolved impacts support denial.

Save Homestake opposes Whitney Reservoir and every new or expanded interbasin diversion from Homestake Valley.

12. Required public record

Whitney cannot proceed on an incomplete project description. The public record must disclose the complete design, operating plan, legal authority, environmental effects, alternatives, costs, and enforcement terms before any approval.

Required public disclosures

Subject	Required disclosure
Design and operations	Final dam, reservoir, collection, pumping, power, road, construction, maintenance, and operating plans for every project component.
Water and reliability	Current rights, diversion limits, annual depletion, dry-year yield, refill assumptions, senior-right constraints, conveyance losses, evaporation, and climate-stressed operations.
Wetlands and streams	Fen and wetland boundaries, groundwater sources, peat depth, stream and floodplain effects, downstream hydrographs, and the permanent losses under each alternative.
Wildlife and culture	Seasonal habitat, movement routes, listed-species analysis and consultation, historic properties, cultural landscapes, and completed Tribal consultation with sensitive locations protected.
Need and alternatives	Measured demand, conservation, reuse, system optimization, aquifer storage, different sites, smaller concepts, and the no-build alternative under the same assumptions.
Community effects	Recreation access, closures, traffic, noise, visual change, wildfire exposure, emergency response, local costs, ratepayer risk, and enforceable local benefits.
Agency decisions	Every application, study, model, public comment, consultation record, staff analysis, condition, monitoring obligation, enforcement mechanism, and written finding.

The record must use dated maps, native data, stated assumptions, complete model results, and traceable source documents so the public and every decision-maker can evaluate the same project.

13. What each decision-maker must do

Actions for each authority

Authority	Required action
Eagle County	Apply every current 1041 criterion and deny Whitney if the required compliance finding cannot be made. If the September 15 replacement takes effect first, apply every Article 4 standard and the replacement's mandatory denial rule.
Forest Service	Evaluate the complete authorization request, National Forest plan consistency, wilderness provisions, cultural resources, species protections, and every dependent facility.
CDPHE	Apply Regulation 87 to need, alternatives, water quality, wetlands, and mitigation.
Army Corps, where federal jurisdiction applies	Complete the waters determination, alternatives analysis, public-interest review, and full disclosure of component impacts.
Colorado wildlife and federal species agencies	Complete species surveys, current habitat mapping, protection measures, and required consultation.
SHPO and appropriate Tribal governments	Identify and protect cultural resources while keeping sensitive information confidential.
Water court	Examine current rights, requested changes, diligence, and injury to other rights.
City and utility governing bodies	Disclose need, alternatives, lifecycle costs, contractual commitments, and ratepayer risk.

14. The case for denial

Save Homestake opposes Whitney Reservoir and new or expanded interbasin diversions from Homestake Valley. Front Range growth does not create a claim on Western Slope water, and this valley should not be permanently transformed on the strength of existing rights or promises of later repair. Conservation, reuse, system efficiency, and durable demand limits are the responsible path. Agencies should deny Whitney and test every requested approval against the law and the evidence.

These are not abstract impacts. Destroying the fen removes a groundwater-supported system formed over millennia. Flooding and infrastructure would remove and fragment habitat used across seasons. Altered flow would weaken the creek and connected wetlands downstream. Roads, closures, noise, and any wilderness-boundary change would sacrifice public access, quiet, and heritage that cannot be recreated. Yet senior rights, drought, and refill limits constrain Whitney's dependable yield. Permanent local loss for a supply constrained by those realities supports denial.

Aurora and Colorado Springs have not published a final Whitney design or operating model. Any future proposal must disclose its complete footprint and consequences before approval.

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