

December 20, 2024

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RE: *Appeal of Elk Creek Fire Protection District Resolution No. 2024-09 Resolution and Order of Exclusion (North Fork Consolidation)*

Dear Appellants and Appellee:

On November 27, 2024, pursuant to C.R.S. § 32-1-501(5)(b)(I), Appellants filed the attached Appeal of Elk Creek Fire Protection District Resolution No. 2024-09 Resolution and Order of Exclusion (North Fork Consolidation) (the “Appeal”). The Appeal presents the following three issues for the Jefferson County (the “County”) Board of County Commissioners (the “BCC”) to consider:

1. Whether the Elk Creek FPD Exclusion Order Violates the Statutory Requirements of C.R.S. § 32-1-501;
2. Whether the Elk Creek FPD Exclusion Order is an Unlawful Attempt to Subvert the Will of the Citizens of Elk Creek with Respect to the Issue of Consolidation; and
3. Whether the Elk Creek FPD Exclusion Order Violates Rights to an Election under Colorado Statutory Law and under the Colorado Constitution Article X Section 20 the Taxpayer’s Bill of Rights?

Section 32-1-501(5)(b)(II), C.R.S provides that, “the board shall consider the factors set forth in subsection (3) of this section and shall make a determination whether to exclude the properties mentioned in the petition or resolution based on the record developed at the hearing before the special district board.” Based on this statutory language, the BCC is authorized to hear and decide Issue No. 1: Whether the Elk Creek FPD Exclusion Order Violates the Statutory requirements of C.R.S. § 32 - 1-501?

The statute does not direct the BCC to determine Issue No. 2 or Issue No. 3, as the scope of the statutory authority granted to the BCC to hear these issues is extremely narrow.

In its hearing on Issue No. 1, the BCC will consider the factors set forth in § 32-1-501(3) and decide whether to grant or deny the petition or to finally adopt the Elk Creek FPD Exclusion Order based on the record (the “Record”) developed at the hearing before the Elk Creek Fire Protection District (the “District”) Board.

The procedure and associated schedule for the Appeal is as follows:

1. **County notifies** District Board, **through this letter of December 20, 2024**, of the Appeal.
2. District Board has **21 calendar days** to submit additional documents **to supplement the record**, on or before **January 10, 2025**. (County notes that at least one document needed and not currently in the Record is the Service Plan for the Elk Creek Fire Protection District). All documents submitted to the County for this Appeal must be simultaneously submitted to the opposing party. Please submit documents to the County at CAOLandUse@co.jefferson.co.us and copy the opposing party.
3. County notifies parties of complete Record. County may request additional documents before confirming that the Record is complete.
4. Appellant has twenty-one (21) calendar days, from the date of notice that the Record is complete, to submit a brief (12 pages max) in support of the Appeal.
5. District Board has twenty-one (21) calendar days, from date Appellant’s brief is received, to submit an answer brief (12 pages max).
6. Appellant has seven (7) calendar days to submit a reply brief no longer than five (5) pages.
7. Once all briefs have been received, the BCC has twenty-one (21) calendar days to review the Appeal.
8. The County will schedule the Appeal for consideration at the next regularly scheduled and available public hearing following expiration of the twenty-one (21) calendar day review period.
9. When the County schedules the Appeal for hearing, the County also will post the Record and all briefing on its website so it is publicly available.
10. At the regularly scheduled public hearing, the parties will be given 10 minutes each to present their cases based on the Record. No testimony will be taken from the parties to the Appeal or the public. The Board’s decision shall be based only on the record developed at the hearing before the District Board, applying the factors in C.R.S. § 32-1-501(3).

11. The BCC Resolution will be available after the next regularly scheduled Board meeting.

The County shall have the discretion to adjust the above schedule, with notice to the parties, as necessary. Thank you for your patience as we established a procedure for this type of appeal. Please let me and Assistant County Attorney, Kristin Cisowski (kcisowsk@jeffco.us) know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sorrells', with a long horizontal stroke extending to the right.

Kimberly S. Sorrells
Jefferson County Attorney
303.271.8965
ksorrell@jeffco.us

Encl.: Appeal of Elk Creek Fire Protection District
cc: Joseph Kerby, County Manager