

EXPLAINER: WHAT IS THE APPEAL OF ELK CREEK FIRE PROTECTION DISTRICT "RESOLUTION AND ORDER OF EXCLUSION" [CALLED BY THE FIRE DISTRICTS "UNIFICATION"¹] REALLY ALL ABOUT?

INTRODUCTION: In the November 2023 election properly using CRS § 32 Part 6 Consolidation, at the recommendation of the three Fire Chiefs, the Elk Creek, Inter-Canyon, and North Fork FPD Boards of Directors– submitted a set of coordinated ballot questions to the voters asking them to approve a consolidation/merger of the three fire districts into a single district encompassing nearly 400 sq-mi of Jefferson, Park, and Douglas Counties. However, by a 51% NO to 49% YES vote the electorate of the Elk Creek FPD soundly rejected the plan for consolidation.

SUBVERSION OF THE WILL OF THE PEOPLE: When at its November 21st, 2024 Board of Directors meeting the Elk Creek FPD voted in a four (4) YES to one (1) NO vote decision to approve the "Resolution and Order of Exclusion 2024-09"—in a slight-of-hand legal maneuver—fire district leadership callously subverted the will of the people by improperly using a provision of the CRS § 32 Special District Act,² the very statute that the legislature created to ensure accountability of fire districts to the people.

Quoting from our Appeal [Charles F Newby – Neil H Whitehead III Appellants³]:

"When a special district statute provides an explicit, direct remedy that requires voter approval, and voters reject the remedy in question, Colorado law does not allow a district to then use an administrative work-around to negate the expressed will of the electorate. Here, after voters rejected consolidation of certain fire districts, the districts are attempting to use an artificial means of excluding land from said districts, dissolving those districts, and then including the excluded land in the one remaining district. To be clear, this tactic was undertaken for one reason: to accomplish the consolidation that voters expressly rejected." [emphasis added]

"The fire districts provide an essential function, one that is key to preserving life and property in the affected areas. At a time when the dangers of drought and fire are at an all-time high in the affected region, the use of this "hidden ball trick" to escape the

¹ Beginning in August 2024, the three Fire Chiefs launched a marketing campaign to sell their Consolidation Plan by inventing the entirely made-up term "Unification".

² Under the CRS § 32 Special District Act, CRS § 32-1-501(1.5) Exclusion was not designed by the legislature to be used for consolidation of entire special districts, CRS § 32 Part 6 Consolidation must be used for that purpose in-as-much as that is the provision which contains safeguards, for example, a required vote by the electorate, which are designed to ensure that the will of the people is followed.

³ Our Appeal, which was submitted to the Colorado 1st Judicial District Court on May 6th, 2025, is entitled: COMPLAINT FOR JUDICIAL REVIEW PURSUANT TO C.R.S. § 32-1-501(5)(C) & C.R.C.P. 106(A)(4) AND DECLARATORY JUDGMENT AND INJUNCTION. The Appeal can be downloaded here: [Appeal of Resolution and Order of Exclusion](#)

decision of voters, whose lives and property are at risk, is as unwarranted as it is unconscionable.

Fortunately, Colorado statute provides for judicial review to prevent such an evasion of the law from taking effect. **This appeal seeks orders from the Court to require statutory compliance by the offending fire districts.** " [emphasis added]

IMPOSITION OF A VARIABLE MILL LEVY RATE VIOLATES THE COLORADO LAW: In a 2018 Ballot Question, the North Fork FPD received authority from its electorate to establish a variable mill levy rate which, in tax year 2026, will allow the North Fork FPD (recently renamed Conifer FPD) to collect property taxes at a mill levy rate of: $7.2/6.25 \times 12.000 = 13.824$ mills, much higher than the 12.500 mills authorized by the voters of the Elk Creek FPD.

Quoting from our Appeal:

*"If Plaintiffs are exposed to a higher mill levy by the floating mill concept previously approved by North Fork, which is assuming their properties through inclusion, **the Court should order an election under C.R.S. § 32-1-501 and to comply with Section 20 of Article X of the Colorado Constitution to seek approval of the floating mill levy construct by voters before they are added to North Fork.**"* [emphasis added]

CONSOLIDATION PLAN ESTABLISHES A FIRE DISTRICT THAT IS LESS ACCOUNTABLE: As property owners and electors of the Elk Creek FPD, we are negatively affected by the Fire Chiefs' Consolidation Plan because it changes the governmental entity that provides fire protection and emergency medical services to us and by significantly diluting the representation that we will have on the governing board of the new fire district.

Quoting from our Appeal:

*"Plaintiffs oppose the changes in representation that the Exclusion Resolution and unlawful consolidation will cause, **which includes diluting their representation on the board of directors for the fire protection district that covers their properties.**"* [emphasis added]

CONCLUSION: As briefly outlined above, the legal issues that we have raised with the Court in our Appeal address deal with foundational principles of our democracy: rule only with the consent of the governed, rule of law, not of men, and the right to equal representation. For essential details regarding the Consolidation Plan proposed by the three Fire Chiefs, please see: [Explainer: The Unconstitutional Plan for Fire District "Unification"](#)

The present status of our Appeal is that the last of the required briefs and exhibits were filed with the Court on August 4, 2025, thus, we are awaiting a ruling(s) from the Court.

CONTACT ME: Please send me your comments, questions, and concerns via email at: cnewby.co@gmail.com, I am always available.

Newby for Elk Creek FPD