

# ALPERSTEIN & COVELL, P.C.

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August 19, 2022

Hilary Hernandez  
Colorado Parks & Wildlife Commission  
Colorado Parks and Wildlife  
6060 Broadway, Denver, CO 80216

*Via email: [hilary.hernandez@state.co.us](mailto:hilary.hernandez@state.co.us)*

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*Via email: [christopher.breidenbach@coag.gov](mailto:christopher.breidenbach@coag.gov)*

***Re: Citizen's Petition Dated June 8, 2022 - Seaplanes on Jackson Lake Reservoir***

Dear Ms. Hernandez and Mr. Breidenbach:

This firm represents the Jackson Lake Reservoir and Irrigation Company ("Jackson Lake Company"). It has come to our attention that a citizen's petition was submitted on June 8, 2022, to the Colorado Parks & Wildlife Commission ("Commission") seeking a determination that seaplanes could land on Jackson Lake Reservoir. A similar petition was filed earlier this year, which we understand did not meet the threshold criteria for consideration by the Commission. We submitted a comment letter in objection to that failed petition and by this letter reiterate Jackson Lake Company's strong opposition to the petition due to the potential harm to the Company's private property rights and water rights decreed for storage in Jackson Lake.

As stated in our May 6, 2022, letter, the Company owns, operates and manages Jackson Lake Reservoir, together with senior and junior water rights decreed for storage in the reservoir, which water rights are primarily used for irrigation of approximately 15,000 acres of agricultural land in Morgan County. As the owner of Jackson Lake Reservoir, Jackson Lake has duties and responsibilities, contractually and by statute, namely to its shareholders and also extending to third parties, that require it to operate, maintain, repair and improve its water infrastructure on an ongoing basis. The Company is concerned that landing seaplanes on the lake will introduce

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invasive species, including but not limited to Zebra mussels, or other nuisances which could damage vital reservoir infrastructure used to store and deliver water to the Company's shareholders. Particularly in times of drought, the water stored in Jackson Lake is a necessary and crucial supply of water to its shareholders and any impediments to the Company's ability to store and deliver water to its shareholders will injure the Company and potentially the viability of this agricultural land.

The Company and the State of Colorado, through the Department of Natural Resources for the use and benefit of the Division of Parks and Outdoor Recreation and the Board of Parks and Outdoor Recreation ("Parks Department") are parties to an Amended and Restated Lease Agreement, dated August 9, 2001, whereby the Parks Department is permitted to manage the *recreational* use of Jackson Lake Reservoir by the general public. Pursuant to this Lease, Parks Department is required to assist the Company in protecting Jackson Lake Reservoir and related property, equipment and machinery, and shall consult with the Company prior to the adoption by the State of any rules of regulations regarding the use of Jackson Lake Reservoir by the public. Landing seaplanes on Jackson Lake Reservoir is not a recreational use for the public and is not an activity permitted under the Lease agreement. Permitting such activity would be a violation of the Lease terms. Furthermore, the Company must be consulted prior to considering and/or making any modifications to rules or regulations regarding the use of the reservoir to ensure that the Company's rights are protected and terms and conditions of the Lease are met. If this petition is considered by the Commission, such consultation must take place prior to any determinations on the same.

Thank you for your consideration of the Company's comments and concerns with the June 8, 2022, petition. Please contact me with any questions.

Sincerely,



Andrea L. Benson

cc: Jackson Lake Reservoir and Irrigation Company (via email)  
Jake Matter, Senior Assistant Attorney General (via email [jake.matter@coag.gov](mailto:jake.matter@coag.gov))

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May 6, 2022

Colorado Parks & Wildlife Commission  
c/o Commission Assistant  
Colorado Parks and Wildlife  
6060 Broadway, Denver, CO 80216

[Dnr\\_cpwcommission@state.co.us](mailto:Dnr_cpwcommission@state.co.us)

Re: Citizen's Petition to Allow Seaplanes to Land on Jackson Lake Reservoir

Dear Sir/Madam:

This firm represents the Jackson Lake Reservoir and Irrigation Company ("Jackson Lake Company"). It has come to our attention that a citizen's petition was submitted to the Colorado Parks & Wildlife Commission ("Commission") seeking a determination that seaplanes could land on Jackson Lake Reservoir. We understand that the petition did not meet the threshold criteria for consideration by the Commission at its May 4-5, 2022 meeting. However, in the event the same petition is filed again in the future, we wish to express the Company's strong opposition due to the potential harm to the Company's private property rights and water rights decreed for storage in Jackson Lake.

The Company owns, operates and manages Jackson Lake Reservoir, together with senior and junior water rights decreed for storage in the reservoir, which water rights are primarily used for irrigation of approximately 15,000 acres of agricultural land in Morgan County. As the owner of Jackson Lake Reservoir, Jackson Lake has duties and responsibilities, contractually and by statute, namely to its shareholders and also extending to third parties, that require it to operate, maintain, repair and improve its water infrastructure on an ongoing basis. The Company is concerned that landing seaplanes for recreational purposes in the lake will introduce invasive species, including but not limited to Zebra mussels, or other nuisances which could damage vital reservoir infrastructure used to store and deliver water to the Company's shareholders. Particularly in times of drought, the water stored in Jackson Lake is a necessary and crucial supply of water to its shareholders and any impediments to the Company's ability to store and deliver water to its shareholders will injure the Company and potentially the viability of this agricultural land.

Colorado Parks & Wildlife Commission

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The Company and the State of Colorado, through the Department of Natural Resources for the use and benefit of the Division of Parks and Outdoor Recreation and the Board of Parks and Outdoor Recreation (“Parks Department”) are parties to an Amended and Restated Lease Agreement, dated August 9, 2001, whereby the Parks Department is permitted to manage the recreational use of Jackson Lake Reservoir by the general public. Pursuant to this Lease, Parks Department is required to assist the Company in protecting Jackson Lake Reservoir and related property, equipment and machinery, and shall consult with the Company prior to the adoption by the State of any rules of regulations regarding the use of Jackson Lake Reservoir by the public. We therefore request that upon receipt of any additional petitions for the Company is consulted prior to considering and/or making any determinations to ensure that the Company’s rights are protected and terms and conditions of the Lease are met.

Thank you for your consideration of the Company’s comments and concerns with this matter. Please contact me with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Andrea L. Benson". The signature is written in a cursive style with a large initial "A".

Andrea L. Benson

cc: Board of Directors of Jackson Lake Reservoir and Irrigation Company