



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

July 23, 2010

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Governor

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Executive Director

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Director/State Engineer

To: Ground Water Commission

From: Keith Vander Horst, Designated Basins Team Leader *K.V.H.*

Subject: Response to a request in the May meeting to address, in Determination of Water Rights, those Ground Water Management District rules that prohibit export

Determination of Water Rights to Denver Basin bedrock aquifers are issued identifying specific places of use where the underlying ground water pumped pursuant to those rights may be used. The place of use is typically the overlying land from under which the water in a Determination of Water Right is being sought. Occasionally the applicant identifies other land as proposed places of use of the water. Assuming all other aspects of the application are in order, so long as the applicant either owns the other land or has a contract with the owner of the other land to use the water on that other land, the Determination of Water Right is issued allowing use on that other land. There is no prohibition applicable to the Commission's approval that prevents issuance of the Determination of Water Right allowing use of the water on such other land located outside of either the Designated Basin or Ground Water Management District in which the overlying land is located.

Four Ground Water Management Districts overlie the Denver Basin aquifers: Upper Black Squirrel, Upper Big Sandy, Lost Creek and Northern Kiowa Bijou. Upper Black Squirrel and Upper Big Sandy have rules prohibiting export of ground water outside of the District without first obtaining District approval. Lost Creek has a rule stating the District shall prohibit, after a hearing, export that materially affects the rights within the District. North Kiowa Bijou has a rule simply prohibiting export of ground water outside of the District.

Issuance of a Determination of Water Right by the Commission does not mean the water right holder is exempt from complying with a valid District rule that prohibits export of water outside of the District. In order to alert Determination of Water Right holders to the existence of District rules prohibiting or affecting export, Staff proposes the following type of language could be added to Determinations of Water Rights.

For Upper Black Squirrel Creek, Upper Big Sandy, and Lost Creek

The _ Ground Water Management District's rules prohibit export of ground water outside of the boundaries of the District unless the District Board approves such export. The applicant is hereby advised that issuance of this Determination of Water Right does not free the applicant from complying with valid District Rules.

For North Kiowa Bijou

The Northern Kiowa Bijou Ground Water Management District's rules prohibit export of ground water outside of the boundaries of the District. The applicant is hereby advised that issuance of this Determination of Water Right does not free the applicant from complying with valid District Rules.

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