

HEARING OFFICER'S REPORT

Prepared for the August 18, 2017 meeting of the Colorado Ground Water Commission

The listing below summarizes all adjudicatory matters pending before the Colorado Ground Water Commission as of July 20, 2017. ***Updated/new information is indicated in bold italics. Gaps in case numbering indicate case reported on previously is closed and therefore, removed from the report.***

Gallegos, Reinaldo etc

Case No. 03-GW-06

Designated Basin: Upper Crow Creek Date of request: April 30, 2003

Subject: Petition to de-designate portions of the Upper Crow Ck Designated Basin

Status: Hearing Officer issued decision on March 27, 2012. Commission upheld Hearing Officer's decision. Case appealed to District Court for de novo review (see Case No. 03CV1335, Weld County District Court). ***District Court upheld Commission's decision on March 9, 2015.*** Oral argument before the Supreme Court held on December 6, 2016. ***Court upheld Commission's decision, however, Gallegos has petitioned for rehearing. Awaiting court's decision.***

Woodmen Hills Metro Dist.

Case No. 03-GW-20

Designated Basin: Upper Black Squirrel Date of request: Oct. 30, 2003

Subject: Objection to (3) three applications to appropriate designated ground water from the alluvial aquifer of Black Squirrel Creek, or its tributaries and an application for a replacement plan to prevent injury to water rights of other appropriators and allow the proposed appropriation from the alluvial aquifer. Receipt No 501564-A, B, and C.

Status: Amended replacement plan filed and published. Motion to vacate hearing granted. ***Hearing scheduled for December 4 through 8, 2017.***

Cherokee Metro & Meridian Svc Dist.

Case No. 08-GW-71

Designated Basin: Upper Black Squirrel Date of request: Oct. 15, 2008

Subject: Objection to an application for approval of a replacement plan to make new appropriations from the alluvial aquifer within the Upper Black Squirrel Creek Designated Basin.

Status: Two weeks of hearing held June 8th thru June 19, 2009. Case consolidated with Case Nos. 08GW78 as well as the change case filings for well nos. 9 through 12 (09GW15). Case is presently stayed. Supreme Court issued a decision on the ability of Meridian to Intervene in the declaratory action regarding the stipulation in 98CW80 and indicated Meridian could intervene and remanded to Water Court for further action. Supreme Court upheld lower court ruling that nothing in the stipulation, and particularly not its use of the word "recharge," implied abandonment or forfeiture of any right Cherokee might otherwise have to claim future credits within the basin. Matter is remanded to District Court who will then remand to the Commission for further proceedings. ***Still awaiting remand from District Court to continue proceedings.***

Cherokee Metropolitan District

Case No. 08-GW-78

Designated Basin: Upper Black Squirrel Date of request: Dec. 29, 2008

Subject: Objection to an application to change the type and place of use of Well Permit No. 49988-F.

Status: **See Case No. 08GW71 above.**

Meridian Service Metropolitan Dist.,

Case No. 09-GW-11

Designated Basin: Upper Black Squirrel Date of request: June 15, 2009

Subject: Objection concerning an application to change a determination of water right

Status: **See Case No. 08GW71 above.**

Cherokee Metro & Meridian Svc Dist.

Case No. 09-GW-15

Designated Basin: Upper Black Squirrel Date of request: Nov. 17, 2009

Subject: Objection to an application to change the type and place of use

Status: **See Case No. 08GW71 above.**

Meridian Service Metropolitan District

Case No. 12-GW-10

Designated Basin: Upper Black Squirrel Date of request: Jan.-12, 2012

Subject: Nature of water and jurisdiction.

Status: Initial decision of Hearing Officer entered on April 25, 2013. Commission upheld Hearing Officer's decision. Meridian appealed to El Paso County District Court. Certification of record on appeal is complete. District Court upheld Commission decision. Appealed to Supreme Court, briefs have been filed. Oral argument before the Supreme Court held on September 30, 2015. Decision issued by Supreme Court upholding District Court and Commission decision. ***Still awaiting remand from District Court.***

Front Range Resources, LLC

Case No. 13-GW-07

Designated Basin: Lost Creek Date of request: Sept. 12, 2013

Subject: Application for approval of a replacement plan located in the Lost Creek Designated Basin

Status: Hearing Officer issued order per stipulation of the parties and is now on appeal to the District Court. Set for trial before District Court in Adams County, June 6 thru 17, 2016. Oral argument on motion to dismiss South Platte water rights from replacement plan held. District Court dismissed South Platte water rights for inclusion in replacement plan. ***District Court dismissed case based on issue of speculation. The Applicant appealed the case to the Supreme Court.***

Brett Axton Rocky Mountain Roosters

Case No. 15GW05

Designated Basin: Kiowa Bijou Date of request: May 13, 2015

Subject: Objections to Determinations of water rights from Arapahoe & Denver

Status: ***Parties settled prior to June hearing date. Case Closed.***

Brett Axton Rocky Mountain Roosters

Case No. 15GW06

Designated Basin: Kiowa Bijou Date of request: May 13, 2015

Subject: Objections to Replacement Plan

Status: ***See 15GW05 above.***

Meridian Metropolitan District

Case No. 15GW14

Designated Basin: Upper Black Squirrel

Date of request: Sept. 30, 2015

Subject: Application for Approval of a Replacement Plan.

Status: ***Hearing held in February 2017 and Decision of the Hearing Officer entered. Time for appeal has passed and therefore Hearing Officer decision is the decision of the Commission Case closed***

Cherokee Metropolitan District

Case No. 15GW15

Designated Basin: Upper Black Squirrel

Date of request: Oct. 23, 2015

Subject: Verified Complaint for Declaratory Judgment involving Wells 1 through 8.

Status: ***Parties stipulated and Hearing Officer entered decision as agreed to between the parties. Once appeal time frame has concluded the Hearing Officer's decision will become final agency action.***

Strasburg Sanitation and Water District

Case No. 16GW01

Designated Basin: Kiowa-Bijou (North)

Date of request: Jan. 14, 2016

Subject: Objection to issuance of Final Permit, Permit No. 2642-F.

Status: Case is set for a 4 day hearing commencing on May 22, 2017. Motion for Summary Judgment denied. ***Appealed to the Commission and will be heard at the November 3, 2017 Commission meeting.***

Town of Kiowa

Case No. 16GW02

Designated Basin: Kiowa-Bijou

Date of request: Jan. 14, 2016

Subject: Objection to issuance of Final Permit, Permit No. 2794-F.

Status: ***Hearing Officer entered initial decision upholding Staff's limitations on the final permit. Applicant has appealed the decision and it will be heard before the Commission at the November 3, 2017 meeting.***

Upper Crow Creek Rule amendments

Case No. 16GW04

Designated Basin: Upper Crow Creek

Date of request: July 2016

Subject: Determine alluvial, fan and White River aquifers as overappropriated.

Status: *At the Commission meeting on February 17, 2017, the Commission determined aquifers overappropriated as proposed. **Case closed.***

Meridian Service Metro District

Case No. 16GW05

Designated Basin: Upper Black Squirrel Date of request: December 16, 2016

Subject: Determine jurisdiction over the replace of depletions caused by evaporation to surface water flowing into and through lined impoundments in the basin.

Status: ***Awaiting further action/direction from the Commission.***

Formation of Upper Crow Creek Management District

Case No. 17GW01

Designated Basin: Upper Crow Creek Date of request: Feb. 7, 2017

Subject: Proposal to form a ground water management district in the Upper Crow Creek Designated Ground Water Basin.

Status: The Commission considered the proposal at its February 2017 meeting and consented to the request. Order of Consent signed and issued on April 12, 2017. ***Case closed.***

Lost Creek Dairy

Case No. 17GW02

Designated Basin: Lost Creek Date of request: April 25, 2017

Subject: Objection by the Management District to a proposed change in type of use.

Status: ***Parties have reached an agreement in principal and Hearing Officer is awaiting submittal of stipulations that are pending before the District.***

Lost Creek Dairy


Case No. 17GW03

Designated Basin: Lost Creek Date of request: April 25, 2017

Subject: Objection by the Management District to a proposed change in place of use.

Status: ***See 17GW02 above.***

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joseph B. Grantham". The signature is written in a dark ink and is positioned above a horizontal line.

Joseph (Jody) Grantham, Hearing Officer