

HEARING OFFICER'S REPORT

Prepared for the February 19, 2016 meeting of the Colorado Ground Water Commission

The listing below summarizes all adjudicatory matters pending before the Colorado Ground Water Commission as of February 3, 2016. ***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. District Court recently awarded costs to the well owners in the basin as the prevailing parties. Case is now on appeal to Supreme Court.***

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: Staff is working with applicant to obtain permits and replacement plan. ***Amended replacement plan filed and published. Hearing is set for 5 days commencing on October 31, 2016.***

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 pending outcome of district court declaratory judgment proceedings on stipulation interpretation. Supreme Court issued a decision in December 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. All cases related to the replacement plan are stayed pending the outcome of a determination concerning interpretation of the stipulation as it relates to use and reuse within the basin. Action still pending determination by District Court as to whether Order entered by Court is presently appealable. Relevant cases before Commission therefore remain stayed. Oral argument before Supreme Court held on December 10, 2014. 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. ***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.***

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.***

WCR Resources**Case No. 15-GW-01**

Designated Basin: Lost Creek

Date of request: Jan. 20, 2015

Subject: Application for change in type of use.

Status: Five day hearing is set for December 14 through 18, 2015. ***All parties came to an agreement and the hearing was vacated and remanded to Staff. Case closed.***

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: Status conference held on July 31, 2015 and the parties agreed to continue to meet to discuss settlement. At the status conference held on October 6, 2015, the parties requested more time and it was granted. Next status conference is scheduled for January 20, 2016 to discuss further proceedings. ***At the status conference held on January 20, 2016, certain objectors were ordered to provide documentation from their site visit to all other parties by February 1, 2016. The Applicant was ordered to determine by April 5, 2016, if further amendments would be filed. Status and setting conference is scheduled for April 5, 2016.***

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.*****Robert L. Garner, Cherokee Metro Dist. et al****Case No. 15GW08**

Designated Basin: Upper Black Squirrel Ck.

Date of request: July 22, 2015

Subject: Objections to Change in Type of Use

Status: ***Hearing is set for July 11 through 13, 2016.***

Gayln Einspahr**Case No. 15GW10**

Designated Basin: Northern High Plains, Sandhills Date of request: Aug. 27, 2015

Subject: Objection to an application to reduce permitted acres.

Status: ***Scheduled for a one day hearing on March 15, 2016.***

Prospect Valley Dairy, LLC**Case No. 15GW12**

Designated Basin: Lost Creek Date of request: Sept. 10, 2015

Subject: Objection to Replacement Plan application.

Status: Parties in settlement discussions. Status conference scheduled for November 13, 2015. ***Parties came to an agreement and the Hearing Officer issued an order on December 9, 2015 remanding to Staff and closing case.***

Cervi Enterprises, Inc.**Case No. 15GW13**

Designated Basin: Lost Creek Date of request: Sept. 16, 2015

Subject: Objections to determination of Water Rights.

Status: Two objectors have withdrawn leaving one final objector. Status conference scheduled for November 13, 2015. ***Parties came to an agreement and the case was remanded to Staff and closed on November 12, 2015.***

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: Motion to disqualify Hearing Officer filed by Meridian. Motion is under advisement and awaiting responsive pleadings. ***Hearing Officer issued order on December 7, 2015 denying the motion to disqualify. The case is set for a 5 day hearing commencing on February 6, 2017.***

Cherokee Metropolitan District

Case No. 15GW15

Designated Basin: Upper Black Squirrel
23, 2015

Date of request: Oct.

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

Status: Hearing Officer acknowledged receipt of the complaint and on October 28, 2015, ordered Staff to publish the Complaint. Further settings are pending the end of required objection period. ***Objection period ended. Staff for the Commission filed a Motion to Dismiss the Commission as a defendant in the case. Hearing Officer granted the motion on January 19, 2016 and substituted Dick Wolfe in his capacity as Executive Director of the Commission. Case is set for a 5 day hearing commencing March 20, 2017.***

Todd Denning

Case No. 15GW16

Designated Basin: Lost Creek
2015

Date of request: Nov. 17,

Subject: Change in description of irrigated acreage.

Status: ***Objection withdrawn, case remanded and closed on December 22, 2015.***

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 trial commencing on May 22, 2017.***

Town of Kiowa

Case No. 16GW02

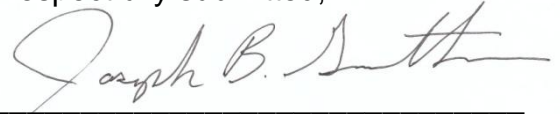
Designated Basin: Kiowa-Bijou

Date of request: Jan. 14, 2016

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

Status: ***Case is set for a 4 day trial commencing on May 22, 2017.***

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joseph B. Grantham".

Joseph (Jody) Grantham, Hearing Officer