



STATE OF
COLORADO

Kosloff - DNR, Tracy <tracy.kosloff@state.co.us>

CS-U/Super Ditch Following-Leasing Pilot Project

1 message

Megan Gutwein <MG@bhgrlaw.com>

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To: Abigail Ortega <ajortega@csu.org>, "alan.leak@respec.com" <alan.leak@respec.com>, "alanc@white-jankowski.com" <alanc@white-jankowski.com>, "Alexander Funk (CWCB)" <alexander.funk@state.co.us>, Austin Malotte <amalotte@bbawater.com>, "aytron@hendrix-wai.com" <aytron@hendrix-wai.com>, Bill Tyner <bill.tyner@state.co.us>, Bob Krassa <bob@krassa.com>, "Beightel, Chris [KDA]" <Chris.Beightel@ks.gov>, Craig Lis <clis@martinandwood.com>, Dan Niemela <dniemela@bbawater.com>, "ewilkinson@csu.org" <ewilkinson@csu.org>, Gerry Knapp <gerryknapp@gmail.com>, "jdeherrera@pwm-d-co.us" <jdeherrera@pwm-d-co.us>, "Salter, Kevin [KDA]" <Kevin.Salter@ks.gov>, Krystle Ervin <KErvin@martinandwood.com>, "lawma@cminet.net" <lawma@cminet.net>, "Lest - DNR, Lori" <lori.lest@state.co.us>, "mary.presecan@lrewater.com" <mary.presecan@lrewater.com>, Matthew Montgomery <matthewmontgomery@hillandrobbins.com>, "Duran, Rachel [KDA]" <Rachel.Duran@ks.gov>, Rachel Zancanella <rachel.zancanella@state.co.us>, "Randy@hendrix-wai.com" <Randy@hendrix-wai.com>, Richard Mehren <rmehren@mwhw.com>, Scott Lorenz <slorenz@csu.org>, Steve Leonhardt <sleonhardt@bflaw.com>, "Kosloff - DNR, Tracy" <tracy.kosloff@state.co.us>, "wendy.hunker@state.co.us" <wendy.hunker@state.co.us>, "WHCaile@hollandhart.com" <WHCaile@hollandhart.com>
Cc: "Tia M. Gerung" <tmg@bhgrlaw.com>

All,

After discussions with Pueblo West, we have addressed some of their concerns that were included in the Joint Conference Report under Unresolved Terms and Conditions. I understand that it is late in the process of the Division Engineer's Office review, but we hope that you will take the below revisions into consideration. I repeat the unresolved issue below, followed by the status of its resolution.

- Whether or not Applicants must deliver to the Arkansas River an amount of water equal to the difference in soil moisture before and after a parcel was dry-land farmed.

Pueblo West no longer requests any revisions to the proposed terms and conditions.

- Whether or not there must be a term and condition stating that "there shall be no renewal of this temporary lease/fallow project after the ten year term. Any continuation of this operation must first obtain Water Court approval under the resume-notice procedure."

Applicants and Pueblo West have agreed on the following term and condition: "This Pilot Project shall not be renewed as another HB 1248 pilot project after the expiration of its ten year term. Notwithstanding the foregoing, neither Applicant will be precluded from applying for approval of another pilot project provided that such pilot project involves the use of leased water under a different ditch, provides water to a different end user, or utilizes a substantially different operational method so as to provide meaningful information as to the efficacy of leasing-fallowing pilot projects."

- Whether or not lagged return flows must be replaced upstream of the location of the lagged return flow at all times.

This issue is still unresolved.

8. Whether or not the terms and conditions clearly delineate how exchanges under 05CW96 may be used.

After further discussion, Applicants will agree to the following term and condition: "Super Ditch shall not operate the exchanges in this Pilot Project so as to prevent any intervening decreed water right, including any decreed appropriative right of exchange, from diverting the amount of water to which it would have been legally entitled in the absence of these exchanges." Pueblo West requested that the term bind "Co-Applicants," however, CS-U is not operating exchanges under this Pilot Project. It may operate exchanges only after its water has been delivered to Pueblo Reservoir under this Pilot Project.

9. Whether or not Super Ditch's engineers must submit supplemental engineering related to whether the results of the LFT are consistent with 12CW94, and why any 12CW94 results are not being used.

After further discussion, Pueblo West no longer requests any revisions.

10. Whether or not a term and condition must be added stating that "Super Ditch must lease enough space in Pueblo Reservoir to assure that the requirements of the 10CW4 Decree are met, prior to exchanging water into Pueblo Reservoir.

After further discussion, Applicants and Pueblo West have agreed on the following term and condition: "The projection of lagged return flows shall be compared to the dry-year yields in Table 9, Colorado Springs Supplies for Return Flow Replacement, included with the revised tables in the November 25, 2019 Martin and Wood Water Consultants, Inc. memorandum regarding the CS-U/Super Ditch Pilot Project Revised HCU Analysis. If the Division Engineer determines that such source(s) is(are) inadequate or otherwise unavailable to meet return flow obligations owed for the upcoming plan year, the Division Engineer may deny use of that source for such purpose and require Applicants to dedicate an acceptable firm source of water prior to commencement of operations for that plan year. This shall also include information regarding Applicants' anticipated method(s) and source(s) of water anticipated to be used to meet return flow obligations beyond the upcoming plan year such that the Division Engineer can evaluate the likelihood that Applicants will continue to be able to meet return flow obligations in upcoming years and to take such action(s) as may be necessary to proactively address potential shortfalls in meeting long-term return flow obligations. This projection shall be available to all interested parties through the posting to an FTP site or other accessible web site within a reasonable time of submittal to the Division Engineer."

11. Whether or not additional terms and conditions relevant to the decree in 10CW4 must be added to address stepped exchanges.

After further discussion, Pueblo West no longer requests any revisions.

12. Whether or not additional terms and conditions need to be added related to delivery of return flow water.

This issue is still unresolved.

13. Whether additional terms and conditions need to be added to address the potential high groundwater issue.

After further discussion, Pueblo West no longer requests any revisions.

Thank you,

Megan

Megan Gutwein

Attorney

(303) 402-1600



BERG HILL
GREENLEAF RUSCITTI LLP
ATTORNEYS AT LAW