TO: Colorado Water Conservation Board Members
FROM: Colin Watson, Water Resources Engineer
Stream and Lake Protection Section
DATE: January 24-25, 2022
AGENDA ITEM: 17.a-b. Request for Authorizations to Proceed to Trials for Stipulated Water Court Opposition Cases

Staff Recommendation:

Pursuant to ISF Rule 8j., Staff recommends that the Board authorize Staff to participate at trial, as necessary, to defend CWCB’s stipulation in each of the cases identified in Table 1.

Table 1

<table>
<thead>
<tr>
<th>Div.</th>
<th>Case No.</th>
<th>Applicant</th>
<th>Trial Date (No. of Days)</th>
<th>CWCB Stipulation Date</th>
<th>CWCB Statement of Opposition Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>18CW3090</td>
<td>City of Westminster</td>
<td>February 28, 2022 (10 days)</td>
<td>December 8, 2020</td>
<td>August 28, 2018</td>
</tr>
<tr>
<td>2</td>
<td>19CW3061</td>
<td>Thomas H. Smith</td>
<td>March 7, 2022 (3 days)</td>
<td>October 28, 2021</td>
<td>November 25, 2019</td>
</tr>
</tbody>
</table>

Background:

Trial has been set in these cases and may still occur prior to, or immediately following, the next Board meeting. Staff may need to participate at trial to defend CWCB’s stipulation. In recent years, the water courts have been moving cases through the litigation process more quickly and more water court cases have been set for trial. Staff are preparing for the rare situation wherein a case advances to trial after CWCB has stipulated in the case and CWCB needs to participate in trial to defend CWCB’s stipulation.
Case Summaries:

17.a - Case No. 18CW3090 (Water Division 1): Application of the City of Westminster

Background:
In this case, Applicant seeks a change of water right, which could injure the CWCB’s many instream flow water rights in Water Division 1. Other opposers have not yet settled and the case remains open before the water court judge. Staff is requesting authorization to proceed to participate in a trial that may occur in this case, to the extent needed to defend CWCB’s stipulation.

17.b - Case No. 19CW3061 (Water Division 2): Application of Thomas H. Smith

Background:
In this case, Applicant seeks a change of water rights, which could injure the CWCB’s instream flow water right on the North Fork of the South Arkansas River. Other opposers have not yet settled and the case remains open before the water court judge. Staff is requesting authorization to proceed to participate in a trial that may occur in this case, to the extent needed to defend CWCB’s stipulation.
January 24-25, 2022 CWCB Board Meeting
17.a Authorization to Proceed to Trail
Case No. 18CW3090 (Water Division 1)
City of Westminster
January 27-28, 2020 CWCB Board Meeting
17.b Authorization to Proceed to Trial
Case No. 19CW3061 (Division 2)
Thomas H. Smith
0

Legend
- Diversion
- Reservoir
- ISF at Issue
- Hoosier Ditch
- River
- Municipal Boundaries