

DISTRICT COURT, WATER DIVISION 1, COLORADO Weld County District Court 901 9 <sup>th</sup> Avenue Greeley, CO 80631-1113 (970) 475-2400	DATE FILED: September 8, 2023 1:24 PM
<i>In re:</i>  <b>Division 1 Water Court Policies</b>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> Case No. 2023 CW 1
<b>REVISED DIVISION 1 WATER COURT POLICIES</b> <i>(Revised September 8, 2023)</i>	

The purpose of these policies is to expedite resolving water matters. Exceptions to these policies will be liberally granted where compliance with them would not serve the intended purpose or where compliance would be overly burdensome. This Order replaces the procedures previously established by Administrative Order 2019-01.

1. **Electronic Filing.** This court requires all documents to be filed electronically using the Colorado Courts E-filing/Judicial Paper on Demand (CCE-jPOD) system.
  
2. **Copy Requests.** All requests for copies shall be either pre-paid (by check or money-order) or made electronically by filing a letter requesting copies through CCE-jPOD, which will result in the requesting party’s CCE-jPOD account being billed for the copies. The court will accept requests via U.S. mail, which shall include a self-addressed, stamped envelope with adequate postage for return of the requested copies. The court also accepts Visa and Mastercard at the counter. Once payment is received, copies may be scanned, emailed, or routed through CCE-jPOD.

**3. Legal Descriptions.** All applications and amendments must include a legal description of the structure or structures involved. The legal description for each individual structure shall include section, township, range, and county, as well as quarter-quarter of the section. In areas having generally recognized street addresses, the street address as well as the lot and block number, if applicable, shall be set forth in the application in addition to the legal description of the point of diversion or place of storage. The name of the subdivision shall also be included if the lot is part of a subdivision.

**4. Resume Notices.** Applicants shall file proposed resume notices in word processing format, preferably Microsoft Word, via CCE at the time of filing any application or amended application. Proof of publication of the resume notice shall be filed with the court within 182 days from the date of publication. The resume notice should be submitted in “newspaper-ready” format, using a serif font, such as Times New Roman or Book Antiqua, 11-point size, and maximizing the use of space. Applicants shall not have extraneous formatting or tabs set and shall use the heading format below:

20XXCWXX APPLICANT NAME, Applicant Address. Attorney Name, Firm, Address. Type of Application, (e.g., Conditional, Change, Nontributary Groundwater, etc.) in XXXXXXXX COUNTY. Structure Name, Decree, and Well Permit Number (if applicable). Legal Description: Quarter- Quarter, Section, Township, Range, 6th P.M., at a point X,XXX' [N/S] and Quantity of water. Uses of water. Additional Structure Name(s) and information as described above (if applicable). Additional Information. Number of pages of Application.

**5. Amendments to Applications.** Applications may be amended pursuant to the Colorado Rules of Civil Procedure (C.R.C.P.) and the Uniform Local Rules for All State Water Court Divisions (U.L.R.). All motions to amend applications shall include a complete and superseding application including the requested amendments that is

signed and verified as required by statute. All motions to amend shall also include resume notice of the amended portion of the application.

**6. Response to Summary of Consultation.** At the initial status conference with the Water Referee, or at a later hearing if the summary of consultation has not yet been completed, the Water Referee shall inform the parties whether a response to the summary of consultation will be required. If the Referee determines that a response is necessary, the Referee will inform the Applicant when the response is to be filed.

**7. C.R.C.P. Rule 26 Disclosures.** All parties shall serve their C.R.C.P. Rule 26 disclosures on all other parties via CCE, but shall not file a copy with the court. If relevant to a legal issue before the court, however, parties may file a copy of their disclosures as an exhibit with the relevant portions highlighted.

**8. Pretrial Motions.** C.R.C.P. 56 Motions shall be filed no later than 91 days before trial in accordance with U.L.R. 11. This rule may not be changed in any modified case management order. This deadline will not be extended, but it may be moved forward in time through an order issued in that specific case.

**9. Proposed Orders.** Proposed Orders shall be submitted with all motions except those motions filed under C.R.C.P. 56. Proposed Orders shall be in word processing format, preferably Microsoft Word format. Proposed Orders shall be free of unnecessary formatting. **Please DO NOT include the word “proposed” in the title or caption of the order itself;** instead, simply refer to the document as a “proposed order” in the document description listed in CCE. Please also do not submit proposed orders that include the antiquated date format, *Dated this \_\_\_th day of \_\_\_\_\_, 20\_\_*, for the court’s signature; instead simply indicate, *Dated: ,* followed by either a blank space or a blank underline in which the court can insert the date.

**10. Bifurcation of Cases.** Absent good cause, the court will not bifurcate cases for the sole purpose of allowing the Applicant to obtain separate decrees. Bifurcation is encouraged where judicial economy will be served. When a case is bifurcated, one case

will retain the original case number and the other case will receive *a new case number* – the court will no longer use the practice of adding a letter to the original case number. The order allowing bifurcation shall be filed in the original case and also in the new case as the originating pleading.

**11. Proposed Decrees.** Proposed decrees shall be filed in word processing format, preferably Microsoft Word, and shall include the case number and page number on every page. Proposed decrees submitted as part of a stipulation entered into by the parties shall include the “red-line” version tracking all changes that have been made to any proposed decree previously submitted by the Applicant. Deadlines for submission of applications for finding of reasonable diligence for conditional decrees are to be indicated only by an underlined blank space. The court will fill in the proper date upon entry of the decree.

**12. All Cases Initially Referred to Water Referee.** Pursuant to Local Rule 6, as amended December 13, 2018, all applications filed in Water Court will be promptly referred to the Water Referee.

**13. Initial Status Conference After Re-Referral and Trial Setting.** Upon re-referral of the case to the Water Judge, the following procedures shall be followed:

a. The majority of cases re-referred to the Water Judge will be assigned to Judge Taylor in Courtroom 4, but from time-to-time cases will be assigned to Judge Lyons as the alternate Water Judge in Courtroom 3. For those cases that are assigned to Courtroom 4, the parties are to list “Water Division 1” in the heading box containing the court location and address, and “Courtroom 4” beneath the case number. The parties are to designate “Courtroom 3” in their pleadings beneath the case number for those cases assigned to Courtroom 3. The court will notify the parties in writing, either in the re-referral order or through a separate order, which courtroom the case will be assigned to upon re-referral from the Water Referee.

b. The responsible attorney shall file a notice to set within 14 days of the re-referral date to obtain a status conference date. Before contacting the clerk, the responsible attorney shall confer with all parties to determine an estimated length of trial. The court will, in most instances, select the trial dates at the first status conference held before the Water Judge.

c. To reach the division clerk, please call during division setting times between the hours of 8:30 a.m. and 10:00 a.m. on Tuesdays and Thursdays at (970) 475-2540 (for Judge Taylor's courtroom) or (970) 475-2530 (for Judge Lyon's courtroom). If you are unsure which of the two courtrooms to contact, please contact Judge Taylor's courtroom.

d. The initial status conference will be held within 42 days of the date of re-referral. The responsible attorney shall provide all parties and the court with a written notice of status conference containing the date of the status conference and the courtroom WebEx number and access code/meeting number. The responsible attorney shall provide this information to the other parties at least 14 days before the initial status conference. This will allow the parties to consult with their expert witnesses before the status conference to determine whether the witnesses are available on any or all the proposed trial dates. The court posts the trial calendar showing available dates for trial on the 19<sup>th</sup> Judicial District webpage.

e. All parties or their attorneys are required to attend all status conferences. The court will schedule the case for trial at the initial status conference, provided the case is at issue. All trial settings will now occur on the record before the Water Judge. The trial date selected will not be changed at the request of a party who did not appear at the status conference absent extenuating circumstances and good cause shown.

**14. Pre-trial Readiness Conferences.** A pre-trial readiness conference will be scheduled for all trials lasting two days or longer. At the pre-trial readiness conference,

parties shall inform the court of the anticipated length of trial and of any remaining evidentiary disputes, as well as any other issues that the court should be aware before trial. For trials scheduled for three days or longer, the pre-trial readiness conference will occur approximately 30 days before trial.

**15. Appearances for Conferences.**

a. The court allows parties to appear by WebEx for pre-trial readiness conferences and status conferences unless the court directs otherwise. The WebEx information for Judge Taylor's courtroom is: (720)- 650-7664 followed by access code 2592 706 2421. The WebEx information for Judge Lyon's courtroom is: (720) 650-7664 followed by access code 2599 625 6218.

b. Conferences presided by the Water Referee will be by telephone. The Applicant shall provide the dial-in conference number and shall file and serve notice of the time of the conference and the dial-in information.

**16. Trial Exhibits.**

a. All exhibits offered at trial shall be tendered to the court in electronic format. Each party shall provide the court with **one** original exhibit notebook for use by witnesses, unless that party chooses to display exhibits electronically to witnesses. Each party shall supply the court with one copy of its exhibits in electronic format in addition to its original exhibit notebook, on or before the date of trial. All exhibits should be identified with a unique *number* (no letters, please). This avoids confusion in the record because counsel often refer to exhibits using the number only and neglect to use any associated letters.

b. At the end of trial, the court will accept into the court's file only the electronic copies and will release the original notebook to the parties. At the conclusion of trial, the parties will be required to file an electronic copy

through CCE of each exhibit that was offered (whether admitted or not), including in the designation line in CCE the party and trial exhibit.

c. The court has established these procedures for tendering trial exhibits after considering the large number of exhibits tendered for water trials, many of which are over one hundred pages in length; the e-filing size limitation imposed by CCE, which may not allow certain of the water trial exhibits to be uploaded; the advantage of having an exhibit tendered as a complete document, as opposed to submitting the exhibit as separate parts; the advantage of having all trial exhibits tendered in the same fashion, as opposed to having some of the exhibits filed through CCE and others, which cannot be filed through CCE, tendered on a disc or flash drive; and the very tedious nature of attempting to navigate through exhibits filed through CCE during trial, which takes significantly more time than viewing exhibits that are submitted on a disc or flash drive. These procedures for tendering trial exhibits are consistent with the requirements of Chief Justice Directive 11-01, Section V(C).

## **17. Trial Briefs.**

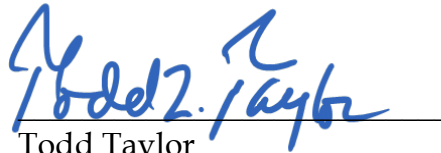
a. While the court encourages trial briefs, it does not require them. The purpose of a trial brief is to inform the court of the relevant legal authority that party will be asking the court to apply at trial.

b. Whether a party files a trial brief or not, all parties planning to participate at trial MUST outline the *claims* or *defenses* they intend to pursue at trial, and must otherwise identify *all disputed issues* they intend to raise at trial, in the proposed trial management order (or in an attached exhibit) with enough specificity to put the other parties on notice of the need to be prepared to address those claims, defenses, or disputed issues. While merely stating that a party intends to require the Applicant to meet its burden of proof is sufficient to preserve the right to argue at the close of evidence that the

Applicant failed to do so, any party who does not identify specific defenses or disputed issues they intended to pursue at trial in the proposed TMO *will not be permitted* to present *testimony or other evidence* at trial or permitted to *question witnesses* called by other parties.

Dated: September 8, 2023

BY THE COURT:

A handwritten signature in blue ink that reads "Todd Taylor". The signature is written in a cursive style with a horizontal line underneath it.

Todd Taylor  
Water Judge, Division One