

**REDLINED COLORADO SUPREME COURT WATER COURT RULES PROPOSALS**  
**Rule 90, Colorado Rules of Civil Procedure**

**90. Dispositions of Applications**

Each application filed within each division shall be consecutively numbered, preceded by the year and the letters CW (e.g. 2008CW-100) to identify such applications as concerning water matters. Any application for finding of reasonable diligence relating to a conditional water right and/or to make a conditional water right absolute that is given a case number pursuant to the preceding sentence shall thereafter use the case number and letter on any document, pleading, or, other paper and list the prior case number directly below the new case number. The water clerk shall receive and file all applications and number them upon payment of filing fees. The water clerk shall include in the resume all applications filed during the preceding month that are complete for purposes of publication. Completeness for purposes of publication means that the application contains the information required by rule 3 of the Uniform Rules for all State Water Court Divisions and the standard forms approved by the water judges under C.R.S. § 37-92-302(2). The water clerk, in consultation with the referee pursuant to rule 3, shall promptly refer to the water judge any incomplete application for consideration, and any such application shall not be published in the resume pending disposition by the water judge. The water clerk shall promptly inform the applicant that the application has been referred to the water judge. In determining whether to include an application in the resume publication, the water judge shall employ a standard of substantial compliance. Upon a finding that the application is complete for purposes of publication, the water judge shall order the water clerk to publish notice of the application in the resume pursuant to C.R.S. § 37-92-302(3)(a). Upon a finding that the application is not complete for publication purposes, the water judge shall set a date pursuant to C.R.C.P. 41(2) and C.R.C.P. 121, Section 1-10, by which date the application will be dismissed unless, prior to that date, a completed application is filed. The application will retain its filing date unless and until the application is dismissed. For purposes of relation back of the filing date of a subsequent applicant's application for a water right or conditional water right pursuant to C.R.S. § 37-92-306.1, the subsequent application shall be filed within sixty days

**Deleted:** Each application filed within each division shall be consecutively numbered, preceded by the letter W (e.g. W-100) to identify such applications as concerning water matters. Any application relating to the determination of a conditional water right which is given a number or a letter pursuant to the preceding sentence shall thereafter use the same number and letter on any document, pleading, or, other paper. The water clerk shall receive and file all applications upon payment of the filing fees. Applications which are not in conformity with the forms adopted by the water judges shall be referred to the water judge for consideration and disposition. Where strict conformity may be unsuitable, prejudicial, or impose an unreasonable burden, the water judge may accept the application or may order that an amended or supplemental application be filed. In any case, the applicant will retain his filing date unless the court rules otherwise.¶

of the date the prior application is published in the resume. Upon request, the water clerk shall provide a prospective applicant or opposer with one copy of the form for the relevant application or statement of opposition. The standard forms for applications and statements of opposition may also be found in the water courts section of the Colorado Judicial Branch web page.

**Rule 2, Uniform Local Rules For All State Water Court Divisions**

**Rule 2. Filing and Service Procedure**

(a) For all cases filed after July 1, 2009, applicants and opposers represented by counsel shall electronically file and serve through the approved judicial branch e-filing service provider all applications, pleadings, motions, briefs, exhibits and other documents. C.R.C.P. Rule 121, Section 1-26, Electronic Filing applies to water court filings. In addition, all applicants or opposers, shall mail a paper copy of the application or statement of opposition to the state engineer and the division engineer. Such filing and mailing shall relieve the requirement of C.R.S. § 37-92-302 to provide the water clerk with the application or statement of opposition in quadruplicate. In accordance with C.R.S. §§ 37-92-302(2)(a) & (4), the state or division engineer shall paper-file their consultation reports in the proceedings and mail the applicant a copy of the consultation report. The applicant represented by counsel shall electronically file and serve the state or division engineer's consultation report. The applicant and parties who are not represented by an attorney shall file with the clerk a single copy of the application and all subsequent documents in original paper format. The water court clerk on behalf of persons not represented by an attorney shall scan and upload such paper-filed documents, including the state or division engineer's consultation report in the proceedings, to the approved judicial branch e-filing system and this shall likewise satisfy the otherwise applicable filing requirements of Article 37, Title 92, of the Colorado Revised Statutes. All documents and correspondence filed after the initial application shall contain the case number. The clerk shall include a certificate of service for every order, ruling or other document e-filed or otherwise served by the clerk to the parties in any water matter.

(b) **An applicant shall file and serve upon all parties at least 15 days prior to hearing on any application before the water judge, a proposed order that sets forth any necessary findings, terms or conditions that the applicant reasonably believes the court should incorporate into the decree.**

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**Rule 3, Uniform Local Rules For All State Water Court  
Divisions**

**Rule 3. Applications for Water Rights**

(a) Applications for determination of water rights, conditional water rights, changes of water rights, a determination that a conditional water right has become a water right, a change of water rights, approval of plans for augmentation, finding of reasonable diligence, approval of a proposed or existing exchange of water, approval to use water outside of the state, and any other matter for which such a standard form exists shall be filed using the standard forms adopted by the water judges, or a format patterned after the standard form containing the information required by the applicable standard form. The applicant shall be responsible for providing all information required by the forms and this rule 3. Completeness of any application for purposes of publication in the resume shall be ascertained pursuant to C.R.C.P. 90.

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(b) More than one water right, claim or structure may be incorporated in any one application under one caption, provided that the required information is given for each water right, claim, or structure, and that each has the same ownership.

(c) Where more than one water right was conditionally decreed under one case number, each water right so decreed may, but need not be, incorporated again in an application for a finding of reasonable diligence or to make absolute; however, such an application shall not be combined with any other case or application except by leave of court.

(d) Applications for determination of matters relating to water rights shall be filed in quadruplicate using the standard forms adopted by the water judges, or a format patterned after the standard forms. Upon request, the water clerk will provide an applicant one copy of the form to be used as the original application. The applicant shall be responsible for providing all information required by the forms. The water clerk may reject any application that is not accompanied by the required number of copies or the required filing fee. The following guidelines shall apply in filing applications:

(1) Every application shall include the legal description of the location of the point of diversion and of the place of storage, if any, of the subject water right, and a general description of the place of use.

(2) In areas having generally recognized street addresses, the street address and also 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.

(3) Every application shall state the name and address of the owner or reputed owner of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed, or upon which water is or will be stored, including any modification to the existing storage pool. The applicant may rely upon the real estate records of the county assessor for the county or counties in which the land is located to determine the owner or reputed owner of potentially affected land.

(4) The actual address of the applicant and the mailing address, if different, shall be given in all cases. An address in care of an attorney is not acceptable in the absence of special circumstances which must be set out fully in an accompanying statement and approved by the water judge.

(e) An application for determination of matters relating to underground water rights shall be governed by the following additional requirements:

(1) Such application shall designate each well, using the state engineer's well permit registration or recording number, if one exists. If a permit required by law has been issued by the state engineer, copies of the permit and the well completion and pump installation report, if completed, shall be attached to the application. If the permit was denied, a copy of the order of denial containing the denial number shall be attached. If this documentation is not available at the time of filing of the application, it shall be supplied as soon as practicable.

(2) If the name of the applicant is not the same as the name appearing on the well permit, then prima facie evidence of ownership of the well site must be submitted to the court. Copies of recorded deeds are preferred for this purpose.

(f) An application for approval of a change of water right or plan for augmentation shall include a complete statement of such change or plan, including a description of all water rights to be established or changed by the plan, a map showing the approximate location of historical use of the rights, and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.

**Rule 6, Uniform Local Rules for All State Water Court  
Divisions**

**Rule 6. Referral to Referee, Case Management, Rulings,  
and Decrees .**

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(a) The water judge shall promptly refer to the water referee all applications except those the water judge determines to retain for adjudication. The referee upon referral by the water judge has the authority and duty in the first instance to promptly begin investigating and to rule upon applications for determinations of water rights, conditional water rights, changes of water rights, plans for augmentation, reasonable diligence in the development of conditional water rights, approval of a proposed or existing exchange of water, approval to use water outside of the state, and other water matters, in accordance with the applicable constitutional, statutory, and case law. Upon investigating the matter, the referee may rerefer the application to the water judge for adjudication.

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(b) The referee's authorities and duties include: assisting potential applicants to understand what information is required to be included in an application; in accordance with rule 90 of the Colorado rules of civil procedure, consulting with the water clerk to determine whether applications contain the information required by rule 3 of these rules and the standard forms approved by the water judges and, if not, preparing a written determination for the applicant identifying what additional information is required to be submitted with the application; investigating each application to determine whether or not the statements in the application and statements of opposition are true and become fully advised with respect to the subject matter of the applications and statements of opposition; conferring with the division engineer and the parties concerning applications and working with the division engineer and the parties to obtain additional information that will assist in narrowing the issues and obtaining agreements; and issuing the referee's ruling and decree in the case. The applicant shall have the burden of sustaining the application and, in the case of a change of water right, a proposed or existing exchange of water, or a plan for augmentation, the burden of showing the absence of injurious effect. The referee's ruling and decree shall set forth appropriate findings and conditions as required by C.R.S. § § 37-92-303 & 305, and

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shall be in an editable format acceptable to the water judge.

(c) The referee shall work promptly to identify applications that will require water judge adjudication of the facts and/or rulings of law and rerefer those applications to the water judge.

(d) To promote the just, speedy, and cost efficient disposition of water court cases, the goals of the referee, as contemplated by C.R.S. § 37-92-303(1), shall include a ruling on each unopposed application within sixty days after the last day on which statements of opposition may be filed, and all other applications as promptly as possible. In pursuit of this goal, the referee shall initiate consultation with the division engineer in every case promptly after the last day for filing statements of opposition. The division engineer's written report on the consultation is due within thirty days of the date the referee initiates consultation in accordance with C.R.S. § 37-92-302(4), except that for applications that require construction of a well, the division engineer's written report is due within four months after the filing of the application in accordance with C.R.S. § 37-92-302(2)(a). Upon request, the referee may extend the time for filing the division engineer's written report. The division engineer may submit additional written reports upon receipt of new information and shall provide them to the referee and all parties. The referee shall not enter a ruling on applications for determination of rights to groundwater from wells described in C.R.S. § 37-90-137(4) until the state engineer's office has had the opportunity to issue a determination of facts concerning the application in accordance with C.R.S. § 37-92-302(2)(a). The referee and the division engineer may confer and jointly agree to forego consultation in a particular case because it is not needed; and, if so, the referee shall enter a minute order as provided in section (n) of this Rule 6.

(e) For good cause, upon agreement of the parties, or sua sponte, the referee may extend the time for ruling on the application beyond sixty days after the last day on which statements of opposition may be filed, but not to exceed a total of one year following the deadline for filing statements of opposition, except that the referee may extend the time for a specified period upon a finding of exceptional circumstances.

(f) If no statements of opposition to an application have been filed, the applicant's attorney shall promptly provide the referee with a proposed ruling and decree. The

referee will prepare the ruling and decree for pro se applicants, and in all cases may convene such conferences or hearings as will assist in performance of the referee's duties.

(g) For all applications in which statements of opposition are filed, the attorney for the applicant, or the referee if the applicant is not represented by counsel, shall set a status conference with the referee and all parties. The status conference shall occur within sixty days after the deadline for filing of statements of opposition, unless the deadline is extended by the referee for good cause. The status conference may be conducted in person or by telephone. All parties must attend the status conference unless excused by the referee. The referee shall advise the division engineer of the status conference and invite or require the division engineer's participation. To assist discussion at the status conference, applicants are encouraged to prepare and circulate a proposed ruling and decree to the referee and the parties in advance of the conference.

(h) During the status conference, the referee and the parties will discuss the issues raised by the application and any statements of opposition, what additional information or investigations will be necessary to assist the parties and the referee to understand and resolve disputed issues, and to assist the referee's preparation of a proposed ruling and decree, and determine whether it will be possible to resolve the application and any objections without referring the application to the water judge for adjudication.

(1) If it is unlikely that the application and objections can be resolved without adjudication by the water judge, then the referee shall promptly rerefer the application to the water judge in accordance with C.R.S. § 37-92-303.

(2) If the applicant or other party does not believe that the application can be resolved without water judge adjudication and so notifies the other parties and the referee at the status conference, then the party shall promptly file a motion to refer the application to the water judge in accordance with C.R.S. § 37-92-303.

(3) The provisions of rule 6 (i)-(k) apply to applications that remain before the referee upon agreement of the parties as a result of the status conference.

(4) As a condition for remaining before the referee instead of referring the application to the water judge for adjudication, the parties shall waive their statutory right

to refer the application to the water judge for the period established in the case management plan. During such period the application may be referred to the water judge only with the consent of all parties or the consent of the referee.

(i) The parties shall discuss at the status conference whether expert investigations will be needed. If expert investigations are needed, the referee and the parties will discuss whether it would be appropriate for the parties to engage a single expert to make the necessary investigation and report the results of the investigation to the parties. The use of a single expert is not mandatory, and any party may choose to utilize its own expert. If all parties agree that the use of a single expert is desirable, the single expert shall be chosen by mutual agreement among the parties. If, however, all parties agree that the use of a single expert is desirable, but the parties cannot agree on who should be selected, the referee may appoint a single consulting expert. The parties will divide the costs of a single consulting expert equally among themselves unless a different cost allocation is agreed upon by the parties. If the parties agree to use a single expert in proceedings before the referee, then, absent the consent of all parties, that expert shall not be permitted to testify as an expert for a party in the same proceeding if the application is rereferred to the water judge or if a protest is filed by a party to the ruling of the referee.

(j) In consultation with the parties, the referee shall establish a case management plan for obtaining the necessary information and preparing a proposed ruling and decree. The case management plan shall set forth a timetable for disposition of the application.

(k) Regardless of whether any expert is involved in the proceedings before the referee, the referee shall not be bound by the opinions and report of the expert, may make investigations without conducting a formal hearing, including site visits, and may enter a ruling supported by the facts and the law. The case management plan shall contain a listing of the disputed issues to the extent known, the additional information needed to assist in resolution of the disputed issues. additional investigations needed to assist in resolving the disputed issues, an estimate of the time required to complete the tasks, the time for filing a proposed ruling and decree, the time for opposers to file comments on the proposed ruling and decree, the time for the applicant to file

status reports, and a schedule for further proceedings. The referee may make such interim rulings, including scheduling additional status conferences and allowing amendments to the case management plan, as will facilitate prompt resolution of the application and issuance of a proposed ruling and decree. The proceedings before the referee shall be completed and the proposed ruling and decree issued no later than one year following the deadline for filing of statements of opposition, except that the referee may extend the time for completion by a specified period upon a finding of exceptional circumstances.

(l) If the parties are able to reach a resolution of the application, and the referee finds it to be supported by the facts and the law, the referee shall work with the parties to fashion an appropriate ruling and decree for filing with the water judge for approval. If such a resolution cannot be reached within the time period allowed by the case management plan, the referee shall enter a ruling on the application, which may be protested to the water judge as provided in C.R.S. § 37-92-304, or the referee may rerefer the application to the water judge, or any party may file a motion to refer the application to the water judge in accordance with C.R.S. § 37-92-303.

(m) At any time after the status conference on applications to which statements of opposition have been filed, or after the filing of applications to which no statements of oppositions have been filed, if some further information is reasonably necessary for the disposition of the application, the referee may require the applicant to supply the information in writing, by affidavit or at an informal conference or at a hearing. The referee may ask the division engineer for information as part of the referee's ongoing informal investigation, but shall discontinue making such requests if the state or division engineer has become a party to the case.

(n) The referee shall enter minute orders summarizing all conferences with the parties or the division or state engineers.

(o) The referee shall have the authority to dismiss for failure to prosecute applications of parties who fail to comply with the requirements of the water court rules or any case management plan, and to dismiss statements of opposition of parties who fail to comply with the requirements of the water court rules or any case management plan. Such dismissal may be protested to the water judge by any party within twenty days of receipt of the order of dismissal.

(p) Any time period contained in the water court rules, or the applicable rules of civil procedure, for an action by the referee or a party may be extended by the water judge for good cause. At any time the water judge determines that an application can be resolved without adjudication by the water judge, the water judge may refer the application back to the referee for disposition. To assist in the adjudication of water matters that are before the water judge, the water judge may direct the referee to perform identified tasks.

**Rule 11, Uniform Local Rules for All State Water Court**

**Divisions**

**Rule 11. Pre-Trial Procedure, Case Management, Disclosure, and Simplification of Issues.**

The provisions of C.R.C.P. Rules 16 and 26 through 37 shall apply except that they shall be modified as follows:

(a) C.R.C.P. 16(b)-(e) shall be modified as follows:

(b) **Presumptive Case Management Order.** Except as provided in section (c) of this Rule, the parties shall not file a Case Management Order and subsections (1)-(10) of this section shall constitute the Case Management Order and shall control the course of the action from the time the case is at issue, unless the water court orders otherwise for good cause shown. The time periods specified in this case management order are provided to take into account protested or re-referred cases that involve computer modeling or detailed technical analysis. Parties and counsel are encouraged to request a modified case management order, pursuant to section (c), to shorten time periods whenever possible, unless the water court orders otherwise for good cause shown.

(1) **At Issue Date.** Water matters shall be considered to be at issue for purposes of C.R.C.P. Rules 16 and 26 forty five (45) days after the earlier of either of the following: entry of an order of re-referral or the filing of a protest to the ruling of the referee, unless the Water Court directs otherwise. Unless the Water Court directs otherwise, the time period for filing a Certificate of Compliance under subsection (b)(7) of this Rule shall be no later than 75 days after a case is at issue.

(2) **Responsible Attorney.** For purposes of Rule 16, as modified herein, the responsible attorney shall mean applicant's counsel, if the applicant is represented by counsel, or, if not, a counsel chosen by opposers, or the water court may choose the responsible attorney. The responsible attorney shall schedule conferences among the parties, prepare and file the Certificate of Compliance, and prepare and submit the proposed trial management order.

(3) **Confer and Exchange Information.** No later than 15 days after the case is at issue, the lead counsel for each party and any party who is not represented by counsel shall confer with each other about the nature and basis of the claims and defenses, the matters to be disclosed pursuant to C.R.C.P. 26(a)(1), the development of a Certificate of Compliance, and the issues that are in dispute.

(4) **Trial Setting.** No later than 60 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121, section 1-6, unless otherwise ordered by the water court.

(5) **Disclosures.**

(A) The time for providing mandatory disclosures pursuant to C.R.C.P. 26(a) (1) shall be as follows:

(I) Applicant's disclosure shall be made 30 days after the case is at issue;

(II) An opposing party's disclosure shall be made 30 days after applicant's disclosures are made.

(B) The time periods for disclosure of expert testimony pursuant to C.R.C.P. 26(a)(2) shall be as follows:

(I) The applicant's expert disclosure shall be made at least 240 days before trial;

(II) The applicant's supplemental expert disclosure, if any, shall be made after the first meeting of the experts held pursuant to subsection (d) of this rule, and served at least 180 days before trial;

(III) An opposer's expert disclosure shall be made at least 120 days before trial;

(IV) If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party under paragraph 5(B)(III) of the Rule, such disclosure shall be made at least 90 days before trial, and any rebuttal expert disclosure shall be made at least 90 days before trial.

(C) Additional Expert Disclosures. In addition to the disclosures required by C.R.C.P. 26(a)(2)(B)(I), the expert's disclosure shall include;

(I) A list of all expert reports authored by the expert in the preceding five years; and

(II) An executable electronic version of any computational model, including all input and output files, relied upon by the expert in forming his or her opinions.

(i) The court may require the party to whom this information is disclosed to pay the reasonable cost to convert the data from the electronic format in which it is maintained in the expert's normal course of business to a format that can be used by the expert for the opposing party(ies).

**(D) Meeting Of Experts To Refine And To Attempt To Resolve Disputed Issues.**

(I) The expert witness(es) for the applicant and the opposer(s) shall meet within 45 days after the applicant's initial expert disclosures are made. The meeting(s) may be in person or by telephonic means. The purpose of the meeting is for the experts to discuss the issues that are the subject of the expert(s) disclosures and with respect to such disclosures: to identify undisputed matters; to attempt to resolve disputed issues; and to identify the remaining issues in dispute. The applicant may subsequently file a supplemental disclosure pursuant to rule 11(b)(5)(B)(ii) to address issues resolved in or arising from the meeting(s) of the experts.

(II) The expert witness(es) for the applicant and the opposer(s) shall meet within 25 days after the opposers' expert disclosures are made. The meeting may be in person or by telephonic means. The purpose of the meeting is for the experts to discuss the issues that are the subject of the expert(s) disclosures and, with respect to such disclosures: to identify undisputed matters; to attempt to resolve disputed issues; and to identify the remaining issues in dispute. Within 5 days after such

meeting the experts shall jointly submit to the parties a written statement setting forth the disputed issues arising from the expert disclosures that they believe remain for trial.

(III) The content of the meetings of the experts and the written statement produced pursuant to Rule 11(b)(5)(D)(II) shall be considered as conduct or statements made in compromise negotiations within the ambit of CRE 408. The meetings of the experts shall not include the attorneys for the parties or the parties themselves.

(E) Declaration By Experts. Each expert witness's disclosure shall contain a declaration by the expert as set forth in the applicable water court form.

(F) Proposed Decree. Applicant shall provide a proposed findings of fact, conclusions of law and decree at the time of its initial 26(a)(2) disclosure. All opposers shall provide comments on the proposed decree, including the language of specific decree provisions deemed necessary by the opposers, at the time of opposers' initial 26(a)(2) disclosures. Applicant shall respond to opposers' suggested decree language by providing an additional draft decree at the time of its rebuttal 26(a)(2) disclosures.

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In circumstances where, as a result of identification of witnesses and documents within the time frame for such identification set forth in this Presumptive Case Management Order but with insufficient time to allow responsive discovery or supplementation by an opposing party, then modification of this Presumptive Case Management Order shall be freely granted.

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**(6) Settlement Discussions.**

(A) No later than 35 days after the case is at issue, the parties shall explore possibilities of a prompt settlement or resolution of the case.

(B) No later than 60 days before trial the parties shall jointly file a statement setting forth the specific disputed issues that will be the subject of expert testimony at trial.

(7) **Certificate of Compliance.** No later than 75 days after the case is at issue, the responsible attorney shall file a Certificate of Compliance. The Certificate of Compliance shall state that the parties have complied with all requirements of subsections (b)(3)-(7) (except (b)(5)(B) through (F) and (b)(6)(B)), inclusive, of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply. A request for a Case Management Conference shall be made at the time for filing the Certificate of Compliance.

(8) **Time to Join Additional Parties and Amend Pleadings.** The time to join additional parties and amend pleadings shall be in accordance with C.R.C.P. 16(b).

(9) **Pretrial Motions.** Unless otherwise ordered by the court, the time for filing pretrial motions shall be no later than 35 days before the trial date, except that motions pursuant to C.R.C.P. 56 shall be filed at least 90 days before the trial date.

(10) **Discovery Schedule.** Until a case is at issue, formal discovery pursuant to C.R.C.P. Rules 26 through 37 shall not be allowed. Informal discovery, including discussions among the parties, disclosure of facts, documents, witnesses, and other material information, field inspections and other reviews, is encouraged prior to the time a water case is at issue. Unless otherwise directed by the water court or agreed to by the parties, the schedule and scope of discovery shall be as set forth in C.R.C.P. 26(b), except that depositions of expert witnesses shall not be allowed until 30 days after the time for filing of the opposers' C.R.C.P. Rule 26(a)(2) disclosures. The date for completion of all discovery shall be 50 days before the trial date.

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(c) **Modified Case Management Order.** Any of the provisions of section (b) of this Rule may be modified by the entry of a Modified Case Management Order pursuant to this section.

(1) **Stipulated Modified Case Management Order.** No later than 75 days after the case is at issue, the parties may file a Stipulated Proposed Modified Case Management Order, supported by a specific showing of good cause for

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each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such proposed order need only set forth the proposed provisions which would be changed from the Presumptive Case Management Order set forth in section (b) of this Rule. The Court may approve and enter the Stipulated Modified Case Management Order, or may set a Case Management Conference.

**(2) Disputed Motions for Modified Case Management**

**Orders.** C.R.C.P. 16(d) shall apply to any disputes concerning a Proposed Modified Case Management Order. If any party wishes to move for a Modified Case Management Order, lead counsel and any unrepresented parties shall confer and cooperate in the development of a Proposed Modified Case Management Order. A motion for a Modified Case Management Order and one form of the proposed Order shall be filed no later than 75 days after the case is at issue. To the extent possible, counsel and any unrepresented parties shall agree to the contents of the Proposed Modified Case Management Order but any matter upon which all parties cannot agree shall be designated as "disputed" in the Proposed Order. The proposed Order shall contain specific alternate provisions upon which agreement could not be reached and shall be supported by specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such motion need only set forth the proposed provisions which would be changed from the Presumptive Case Management Order set forth in section (b) of this Rule. The motion for a Modified Case Management Order shall be signed by lead counsel and any unrepresented parties, or shall contain a statement as to why it is not so signed.

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**(3) Court Ordered Modified Case Management Order.**

The Water Court may order implementation of a Modified Case Management Order if the Court determines that the Presumptive Case Management Order is not appropriate for the specific case. The Court shall not enter a Court Ordered Modified Case Management Order without first holding a Case Management Conference pursuant to C.R.C.P. 16(d).

(d) C.R.C.P. 16(c), C.R.C.P. 16(f)(3)(VI)(C), and C.R.C.P. 16(g) shall not apply to water court proceedings.

Appendix 1 to Chapter 36. Colorado Water Court Forms

Declaration of Expert

Form 2. Declaration of Expert.

I, \_\_\_\_\_, (name of expert) state the following:

(1) I understand that my role as an expert, both in preparing this report and in giving evidence, is to assist the court to understand the evidence or to determine facts in issue. The opinions expressed in my disclosures and in my report are my own professional opinions.

(2) I have endeavored in my report and disclosures to be accurate and complete, and have addressed matters that I regard as being material to the opinions expressed, including the assumptions that I have made, the bases for my opinions, and the methods that I have employed in reaching those opinions.

(3) I have been advised by the attorney for my client of the disclosure requirements of the rules of the court, and I have provided in my report the information required by those rules. I have also disclosed whether, and to what extent, the content of my written report was drafted or changed by any other person.

(4) I will immediately notify, in writing, the attorney for the party for whom I am giving evidence if, for any reason, I consider that my existing report requires any correction or qualification; and, if the correction or qualification is significant, will prepare a supplementary report to the extent permitted by the applicable rules of the court.

(5) I have used my best efforts in my report, and will use my best efforts in any evidence that I am called to give, to express opinions within those areas in which I have been offered or qualified as an expert by the court, and to state whether there are qualifications to my opinions.

(6) I have made the inquiries that I believe are appropriate and, to the best my knowledge, no matters of

significance that I regard as relevant have been withheld from the court.

(7) I have disclosed any financial or pecuniary interest that I have in the results of this lawsuit or in any property or rights that are the subject of the lawsuit for which my report and disclosures are being submitted.

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Declarant