

<p>DISTRICT COURT, WATER DIVISION NO.1 WELD COUNTY, COLORADO 901 9th Avenue / P.O. Box 2038 Greeley, Colorado 80631 (970) 351-7300</p>	<p style="text-align: right; color: blue;">DATE FILED: February 29, 2016 5:20 PM</p> <p style="text-align: center;">^ COURT USE ONLY ^</p>
<p>PLAINTIFF, The Jim Hutton Educational Foundation, v. DEFENDANTS, Dick Wolfe, in his capacity as the Colorado State Engineer, et al.</p>	
<p>Attorneys For Intervenor-Defendant Colorado Ground Water Commission CYNTHIA H. COFFMAN, Attorney General CHAD M. WALLACE, #30022* PATRICK E. KOWALESKI, #09598* Senior Assistant Attorneys General Ralph L. Carr Colorado Judicial Center 1300 Broadway, 7th Floor Denver, CO 80203 Telephone: (720) 508-6281 (Wallace) (720) 508-6297 (Kowaleski) Fax: (720) 508-6039 chad.wallace@coag.gov patrick.kowaleski@coag.gov *Counsel of Record</p>	<p>Case No. 2015CW3018</p> <p>Div.: 1</p>
<p>COLORADO GROUND WATER COMMISSION’S MOTION TO DISMISS</p>	

The Colorado Ground Water Commission (“Commission”), by and through the Attorney General, pursuant to C.R.C.P. 12(b)(1), moves the Court to dismiss the

second and third claims for relief for lack of subject matter jurisdiction and states as follows in support of its motion:

Undersigned and counsel for other Defendants conferred with counsel for Plaintiff regarding this motion. Plaintiff does not consent.

I. Standard of Review

“The plaintiff has the burden of proving jurisdiction . . .” *Barry v. Bally Gaming, Inc.*, 320 P.3d 387, 389, (Colo. App. 2013), quoting *City of Aspen v. Kinder Morgan, Inc.*, 143 P.3d 1076, 1078 (Colo. App. 2006). Subject matter jurisdiction confers authority on a court to decide a particular matter; without it, it may not act. *Adams County Dept. of Social Serv. v. Huynh*, 883 P.2d 573, 574 (Colo. App. 1994). A court considers a motion to dismiss for lack of subject matter jurisdiction pursuant to C.R.C.P. 12(b)(1) based on the facts alleged and the relief requested. *Barry*, 302 P.3d at 389. A court may consider evidence outside the complaint without converting the motion to a summary judgment motion. *Trinity Broad. of Denver, Inc. v. City of Westminster*, 848 P.2d 916, 924 (Colo. 1993). When interpreting a statute, a court first looks to the language employed and, if unambiguous, applies the statute as written unless doing so would lead to an absurd result. *Tulips Invs., LLC v. State ex rel. Suthers*, 340 P.3d 1126, (Colo. 2015). A court should read a statute as a whole, giving consistent, harmonious, and

sensible effect to all parts. *Id.*, citing *In re Crow v. Penrose-St. Francis Healthcare Sys.*, 169 P.3d 158, 165 (Colo. 2007).

II. Facts

The Northern High Plains Designated Ground Water Basin (“Basin”) was created by the Commission in 1966. Complaint at ¶24. Plaintiff’s surface water rights were in existence at the time this basin was designated. Complaint at ¶12. Plaintiff owns surface water rights within the boundaries of the Basin. Complaint at ¶¶12, 25. The boundaries of a designated ground water basin are set pursuant to §37-90-106(1)(a), C.R.S. Complaint at ¶65. The Basin includes the Ogallala alluvial formation as designated ground water. *In the Matter of the Proposed Designated Ground Water Basin – of the Northern High Plains of the State of Colorado, Findings of Fact, Conclusions of Law, Final Order* at p. 3, attached as Exhibit A. The Commission determined that the ground water was designated because “in its natural course it would not be available to and required for the fulfillment of decreed surface rights.” *Id.* Existing surface rights in the Basin were determined to be governed by the provisions of the Republican River compact and surface water laws. *Id.* at p. 4.

Plaintiff asserts that surface water diversions cannot lawfully be curtailed for compliance with the Republican River Compact, §37-67-101, C.R.S., without also curtailing designated ground water diversions. Complaint at ¶61. Plaintiff alleges

that Senate Bill (“S.B.”) 10-52 amended §37-90-106(1)(a), C.R.S. “so that any alterations to a designated ground water basin could only be used to increase the land area in that designated basin, or if the land was to be excluded, it could not be land on which any designated well had been permitted.” Complaint at ¶70.

Plaintiff alleges that the application of S.B. 10-52 to the Basin is unconstitutional because it is retrospective legislation, effected a taking of property, and violated due process rights. Complaint at ¶¶73, 74, 101, 104, 105. Plaintiff intends to file a petition with the Commission to redraw the boundaries of the Basin, but has not yet done so. Complaint at ¶75. The Commission has not yet applied the provisions of S.B. 10-52 to a request to modify the boundary of the Basin.

The Basin is managed pursuant to the Ground Water Management Act (“Management Act”), §37-90-101, C.R.S., et seq. Plaintiff alleges that wells in the Basin are withdrawing tributary water. Complaint at ¶97. Plaintiff seeks to show that wells in the basin are having more than a *de minimis* impact to its surface water rights. Complaint at ¶98. Plaintiff seeks declaratory judgment pursuant to §13-51-101, C.R.S. that §37-90-106(1)(a), C.R.S. is unconstitutional as applied to the Basin. Complaint at ¶106. Plaintiff asserts that the establishment and administration of the Basin pursuant to the Ground Water Management Act are unconstitutional. Complaint at ¶¶115, 116. Plaintiff has not requested a hearing

before the Commission regarding any alleged injury caused by the actions of the Commission or the state engineer pursuant to §37-90-114, C.R.S.

III. Summary of Argument

This Court should dismiss both the second and third claims for lack of subject matter jurisdiction for three reasons: (1) the Commission has not yet made a determination that no designated ground water is at issue, (2) if no designated ground water is at issue the Management Act does not apply, and (3) if designated ground water is at issue judicial review is limited to the designated ground water judge. As a matter of law, if designated ground water is implicated by the controversy, jurisdiction shifts to this Court only if the Commission first concludes that designated ground water is not actually at issue. The second and third claims for relief seek declarations that the Management Act is unconstitutional as applied within the Basin. The second claim is focused on the application of S.B. 10-52, which amended §37-90-106(1)(a), C.R.S. regarding the procedure for how a designated basin's boundaries may be changed. The third claim concerns the entire Management Act and the establishment of the Basin. It is stated in the alternative so that it only raises challenges if the Court finds that the state engineer cannot administer water for Republican River Compact compliance because of the

Management Act.¹ Both claims seek review of how the Management Act is applied. The only agency authorized to apply S.B. 10-52 or to designate a basin is the Commission. Therefore, a challenge to the Management Act requires the Commission to have applied the statute as challenged by Plaintiff. Review of the Commission's actions is statutorily assigned to a designated ground water judge. Plaintiff has skipped these steps and sought review of the Management Act without any actual determination by the Commission.

Under no circumstances does this Court have jurisdiction over the second and third claims for relief. As an initial matter the Commission must determine whether the controversy involves designated ground water. If designated ground water is not involved, the Water Court would have jurisdiction. However, if designated ground water is involved, review the Commission's action is made by the designated ground water judge.

IV. Argument

Plaintiff has failed to establish this Court has jurisdiction over its second and third claims, and cannot do so. Because designated ground water is implicated in this controversy, it cannot be a water matter unless the Commission first determines that designated ground water is not at issue. If designated ground

¹ Plaintiff alleges that the state engineer has maintained the Management Act removes his compact authority within the Basin. Complaint at ¶48. The state engineer has denied this allegation.

water is not at issue, it is a water matter subject to the 1969 Act, not the Management Act. If the Management Act does not control, Plaintiff has not alleged any controversy under its second and third claims. However, if designated ground water is at issue, the controversy is expressly exempted from the jurisdiction of the 1969 Act and must be reviewed by a designated ground water judge.

A. The Ground Water Commission must first decide whether designated ground water is at issue to determine which court has jurisdiction.

The key initial determination is whether designated ground water is involved in Plaintiff's claims. Only after the commission determines that no designated ground water is implicated can the controversy become a water matter subject to the jurisdiction of this Court. *Meridian Serv. Metro. Dist. v. Ground Water Comm'n*, 2015 CO 64 at ¶20. The *Meridian* Court determined that the Commission had to first decide whether a claim to appropriate tributary water from storm run-off implicated designated ground water. Similarly, even though Plaintiff has filed a claim with water court based on administration of its surface rights, the Commission must decide whether it actually implicates designated ground water.² Plaintiff's second claim seeks a determination that S.B. 10-52 impermissibly restricts its ability to alter the boundary to remove areas from the Basin. Complaint at ¶¶73, 74, 101, 104, 105. Plaintiff then plans to seek alteration of the boundaries of the Basin. Complaint at ¶75. Plaintiff's third claim challenges the

² Plaintiff could concede that the second and third claims implicate designated ground water and file an appropriate complaint with the designated ground water judge. See section C, below.

establishment of the Basin and its current administration if it precludes the state engineer from administering the state's Republican River compact obligations.

Complaint at ¶¶115, 116. Because the claims may implicate designated ground water, the controversy cannot be a water matter until the Commission determines otherwise.

Both the second and third claims implicate ground water in the Basin. In fact, this Court has already determined that well owners in the Basin are necessary parties because a ruling may have a direct impact on the ground water in the Basin. *Order re: State and Division Engineers' Motion for Joinder* at p. 3 ("wells owners within the NHP Basin clearly have a significant interest in the Foundation's requested relief"). Their interest is based on their use of ground water within the Basin. Indeed, this Court has already determined that the ground water used by the well owners in the Basin is at issue and such determinations are controlling for this motion. *In re Office of the State Engineer's Approval of the Plan of Water Mgmt. v. Special Improvement Dist. No. 1*, 351 P.3d 1112, 1120 (Colo. 2015) ("prior relevant rulings made in the same case are to be followed unless such application would result in error or unless the ruling is no longer sound due to changed conditions") quoting, *People v. Dunlap*, 975 P.2d 723, 758 (Colo. 1999).

The complaint necessarily involves ground water in the Basin. The second claim requests a declaration that §37-90-106(1)(a), C.R.S. is unconstitutional. If

Plaintiff prevails on this claim, it then intends to seek alteration of the Basin's boundaries. Section 37-90-101(6)(a) requires designated ground water be within the geographic boundaries of a designated ground water basin. An alteration removing ground water from the Basin would alter its legal status as designated ground water. A decision about what protections wells receive within the Basin in a request to alter the Basin's boundaries puts use of designated ground water squarely at issue. The third claim alleges that the designation and administration of the Basin is unlawful. This also puts at issue whether well owners in the Basin are using designated ground water. Plaintiff also seeks administration of designated ground water as tributary. Complaint at ¶115. Presumably this would permit Plaintiff to assert that the state engineer must curtail wells before curtailing its surface rights. Such a result, however, contravenes the modified prior appropriation doctrine statutorily prescribed for designated ground water. §37-90-102(1), C.R.S. The well owners pump water pursuant to their designated ground water permits. They are not curtailed under a strict priority, but managed for full economic development of the Basin. §37-90-102, C.R.S. Should Plaintiff succeed on either of its claims, the well owners may be subject to curtailment even when in compliance with those permits. Therefore, Plaintiff's requested relief in the second and third claims involves ground water in the Basin.

Because the claims implicate ground water, the Commission must first determine whether the ground water in the Basin is designated ground water. *Meridian Serv. Metro. Dist.*, 2015 CO 64, ¶20. The following water bearing geological formations are within the Basin: Ogallala-Alluvium, Chadron, Niobrara, Denton, Dakota, and Morrison. *In the Matter of the Proposed Designated Ground Water Basin – of the Northern High Plains of the State of Colorado, Findings of Fact, Conclusions of Law, Final Order* at p. 2. However, Plaintiff has challenged the establishment and administration of the Basin. Complaint at ¶115. This requires the Commission to make the first determination whether Plaintiff’s complaint implicates designated ground water. *Meridian Serv. Metro. Dist.*, 2015 CO 64, ¶20. Only after the Commission determines that designated ground water is not implicated could the Water Court have jurisdiction. *Id.*

This Court’s jurisdiction over water matters includes only those items specified by statute, and specifically excludes designated ground water basins. The Water Court’s jurisdiction is based on waters of the state under the Water Right Determination and Administration Act of 1969 (“1969 Act”). §37-92-203(1), C.R.S. This gives the Court jurisdiction over water matters within its division. *Id.* “Water matters shall include only those matters which this article and any other law shall specify to be heard by the water judge of the district courts.” *Id.* Thus water matters are only those disputes defined in the 1969 Act or elsewhere by statute.

Neither the 1969 Act nor any other statute specifies that any controversy regarding the Management Act, or establishment and administration of the Basin are water matters.

The 1969 Act specifically excludes designated ground water basins from its provisions. §37-92-602(1)(a), C.R.S. This exclusion applies to review of the laws governing the Basin and the jurisdiction of the Water Court to review S.B. 10-52 and the Management Act. Designated ground water basins are governed by another article altogether, the Management Act. The plain language of the 1969 Act shows exclusion of designated ground water basins from the jurisdiction of the 1969 Act; it is contrary to that exclusion to imply that it allows review of the statutes that govern those basins. The second and third claims are controversies regarding the statutes of the Management Act and implicating designated ground water. They are therefore not statutorily defined water matters.

Plaintiff's complaint does not set out facts establishing that only waters of the state under the 1969 Act are at issue. Plaintiff has admitted that its surface rights are located in a designated basin. Complaint at ¶¶12, 25. It also admits that the wells are withdrawing ground water in a designated basin. *Id.* at ¶27. The wells are withdrawing water pursuant to designated ground water permits. It then alleges that wells within the basin should be administered as tributary water. That puts at issue the many designated ground water wells within the basin. See,

Order re: State and Division Engineers' Motion for Joinder at p. 4 (“the court’s decision here as to the constitutionality of SB-52 and the current administration of the basin has a high likelihood of also affecting the well owners’ rights”). This Court agreed that Plaintiff had to serve notice by publication on those well owners, and many have filed answers. See, *Order re: State and Division Engineers' Motion for Joinder* at p. 6. Further, “after the creation of a designated ground water basin the proponent of the proposition that certain ground water within the basin is not designated ground water has the burden of proving that proposition.” *Danielson v. Vickroy*, 627 P.2d 752, 759 (Colo. 1981) The Commission must first make a finding whether designated ground water is at issue, and find that no designated ground water is involved, before this Court has jurisdiction.

B. If the dispute does not involve designated ground water, the Management Act is not part of the case or controversy.

If the Commission determines that designated ground water is not at issue, Plaintiffs’ second and third claims should be dismissed for lack of subject matter jurisdiction. *Developmental Pathways v. Ritter*, 178 P.3d 524, 530 (Colo. 2008)(a court should only exercise jurisdiction for an existing legal controversy); *People v. Trupp*, 51 P.3d 985, 986 (Colo. 2002) citation omitted (court has no jurisdiction to render an advisory opinion on a controversy that is not yet ripe, or to decide a case on speculative, hypothetical, or contingent set of facts); *Bd. of County Comm'rs v. Park County Sportsmen's Ranch, LLP*, 45 P.3d 693, 698 (Colo.

2002)(jurisdiction exists only if the case contains a currently justiciable issue or an existing legal controversy, rather than the mere possibility of a future claim).

If the Commission determines that the wells at issue within the Basin do not use designated ground water, they would be within the jurisdiction of the Water Court. *Meridian Serv. Metro. Dist.*, 2015 CO 64, ¶20. Further, if the water is subject to the jurisdiction of the Water Court, it would not be subject to the Management Act. The Water Court would apply the 1969 Act to its consideration of a water matter. *Id.* That would also mandate that no provisions of the Management Act are controlling for the water that is subject to review in Water Court.

If jurisdiction lies with this Court because no designated ground water is at issue, Plaintiff's challenges are not based on the Management Act. Plaintiff's second and third claims would only be hypothetical, not based on an existing legal controversy. Plaintiff's second claim asserts that S.B. 10-52 unconstitutionally amended the procedure for altering a basin's boundaries. Plaintiff alleges that this amendment impairs its water rights because of alleged impacts caused by wells in the Basin. However, if its surface rights are under the jurisdiction of the 1969 Act and the wells at issues are also under the jurisdiction of the 1969 Act, there is no case or controversy involving the Management Act. Instead the entirety of the controversy would be under the 1969 Act. Similarly, the designation and

administration of the Basin would be irrelevant to water that is not designated ground water. Thus Plaintiff's assertions that the Management Act precludes administration by the state engineer for the Republican River Compact would not apply to the facts at hand. If this Court has jurisdiction over all the water rights in controversy pursuant to the 1969 Act, none of them are governed by the Management Act and the claims based on the Management Act should be dismissed.

C. Issues involving the Management Act are subject to judicial review by the statutorily assigned designated ground water judge.

If the issues involve designated ground water, they are within the provisions of the Management Act. This gives the Commission the sole authority to set the boundaries of designated basins, as well as to determine whether water within a basin is designated ground water. §37-90-106, C.R.S.; *Meridian Serv. Metro. Dist.*, 2015 CO 64, ¶20. This differs from the 1969 Act in that a state agency, rather than a court, makes an initial determination. See, *Larrick v. North Kiowa Bijou Mgmt. Dist.*, 510 P.2d 323, 328, 181 Colo. 395, 404 (1973)(delegation to state agency is lawful). Review of the Commission's determinations on these issues is statutorily prescribed to a designated ground water judge. §37-90-115((1)(b)(V), C.R.S. Therefore, the Management Act is not a water matter or part of this Court's ancillary jurisdiction, but statutorily assigned to a specific court.

Plaintiff must avail itself of the procedures in the Management Act because it has alleged harm to its surface rights cause by designated ground water wells. Complaint at ¶¶11, 29, 61. It has also challenged the establishment and administration of the Basin. Complaint at ¶115. Further, in asserting injury to its rights based on the operations of the many wells in the Basin, and seeking administration of those wells, Plaintiff has put at issue designated ground water rights. The Basin was designated in 1966, with a determination that it contained designated ground water. *In the Matter of the Proposed Designated Ground Water Basin – of the Northern High Plains of the State of Colorado, Findings of Fact, Conclusions of Law, Final Order*. Since then, the Commission has issued thousands of designated ground water well permits. See, Complaint at ¶26. This Court required that the well owners be made parties because of the potential impact to their rights. However, the well rights, and establishment and administration of the Basin, are all governed by the Management Act. *Danielson v. Vickroy*, 627 P.2d at 759 (matters involving designated ground water committed exclusively to the administrative agencies and courts prescribed by the Management Act). Determinations of well permits, basin designations, and administration of the Basin are all delegated to the Commission or management districts. See, §37-90-101, et seq., C.R.S.

The Management Act set out terms by which any person claiming injury within the boundaries of the Basin by any act of the state engineer or Commission must request a hearing by the Commission. §37-90-114, C.R.S. Subsequent judicial review of the actions of these agencies is statutorily assigned to a designated groundwater judge. §37-90-115(1)(b)(V), C.R.S. The Honorable Michael Singer, 13th Judicial District, is the statutorily designated judge for review of issues regarding the Basin. Colorado Judicial Branch website at <https://www.courts.state.co.us/Courts/Water/Basins.cfm>. If the Management Act is at issue, Judge Singer, not this Court, has subject matter jurisdiction. Therefore, Plaintiff must file an appropriate, well pleaded complaint challenging the Management Act with Judge Singer.

V. Conclusion

This Court should dismiss the second and third claims for relief for three reasons. First, because the claims may implicate designated ground water, the Commission must first determine whether designated ground water is involved in the dispute. A complaint based on actions regarding the wells within the Basin, and establishment and administration of the Basin, cannot be considered as anything other than exclusively a designated ground water issue, unless the Commission determines otherwise. Only after a finding that the dispute does not involve designated ground water does the jurisdiction vest with this Court under

the 1969 Act. Second, if the Commission determines that designated ground water is not implicated, the matter could only involve tributary waters under the 1969 Act. Thus, Plaintiff's allegations regarding the Management Act would be hypothetical. Because no controversy would exist, the Court should dismiss the second and third claims. Third, if the water at issue involves designated ground water, it is exempted from the 1969 Act. Instead, the appropriate agency would need to take action pursuant to the Management Act for the designation of the basin or management of the designated ground water within the basin. Such actions would then be subject to judicial review by the designated ground water judge. In no instance has Plaintiff pleaded a claim under the Water Court's jurisdiction for review of the Management Act. Therefore the Court should dismiss the second and third claims for relief.

Respectfully submitted this 29th day of February 2016,

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/s/ Chad M. Wallace

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CERTIFICATE OF SERVICE

This is to certify that on this 29th day of February, 2016, I caused a true and correct copy of the foregoing **COLORADO GROUND WATER COMMISSION'S MOTION TO DISMISS** to be served electronically via ICCES upon the following:

Party Name	Party Type	Attorney Name
Arikaree Ground Water Management District	Defendant	David C Taussig Eugene J Riordan Leila Christine Behnampour (Vranesh and Raisch)
City of Burlington, Colorado	Defendant	Alix L Joseph Steven M. Nagy (Burns Figa and Will P C)
City of Holyoke	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law)
City of Wray Colorado	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law)
Colorado Agriculture Preservation Association	Defendant	Bradley Charles Grasmick (Lawrence Jones Custer Grasmick LLP)
Colorado Department of Natural Resources	Defendant / Opposer	Daniel E Steuer Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)
Colorado Division of Water Resources	Defendant / Opposer	Daniel E Steuer Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)
Colorado Parks And Wildlife	Defendant / Opposer	Katie Laurette Wiktor Timothy John Monahan (CO Attorney General)
Colorado State Board Land Commissioners	Defendant	Virginia Marie Sciabbarrasi (CO Attorney General)
David L. Dirks	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law)
David Nettles	Defendant /Opposer	Daniel E Steuer Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)

Party Name	Party Type	Attorney Name
Dick Wolfe	Defendant / Opposer	Daniel E Steuer Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)
Dirks Farms Ltd., Julie Dirks and David L. Dirks	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law)
Division 1 Engineer	Division Engineer	Division 1 Water Engineer (State of Colorado DWR Division 1)
Division 1 Water Engineer	Opposer	Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)
Don, Myrna and Nathan Andrews	Defendant	Geoffrey M. Williamson Stuart B. Corbridge (Vranesh and Raisch)
East Cheyenne Ground Water Management District	Defendant	John David Buchanan Timothy Ray Buchanan (Buchanan and Sperling, P.C.)
Happy Creek, Inc., J&D Cattle, LLC, 4M Feeders, Inc., May Brothers, Inc., May Family Farms, 4M Feeders, LLC, May Acres, Inc., Thomas R. May, James J. May, Steven D. Kramer, Kent E. Ficken, and Carlyle James as Trustee of the Chester James Trust	Defendant	Johanna Hamburger William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)
Harvey Colglazier, Marjorie Colglazier Trust, and Lazier, Inc.	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law)
Mariane U. and Timothy E. Ortner	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law)
Marks Butte Ground Water Management District, Frenchman Ground Water Management District, Central Yuma Ground Water Management District, WY Ground Water Management District, and Arikaree Ground Water Management District	Defendant	David C. Taussig Eugene J Riordan Leila Christine Behnampour (Vranesh and Raisch)

Party Name	Party Type	Attorney Name
North Well Owners	Defendant	Kimbra L. Killin Russell Jennings Sprague (Colver Killin and Sprague LLP)
Protect Our Local Community's Water LLC	Defendant	John David Buchanan Timothy Ray Buchanan (Buchanan and Sperling, P.C.)
Republican River Water Conservation District	Defendant	David W Robbins Peter J Ampe (Hill and Robbins PC)
Saving Our Local Economy LLC	Defendant	John David Buchanan Timothy Ray Buchanan (Buchanan and Sperling, P.C.)
State Engineer, Colorado Division of Water Resources	State Engineer	Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)
The Jim Hutton Educational Foundation	Plaintiff / Applicant	Karen Leigh Henderson Steven J Bushong (Porzak Browning & Bushong LLP)
Tri State Generation And Transmission As	Defendant	Aaron S. Ladd Justine Catherine Shepherd (Vranesh and Raisch)
Yuma County Water Authority Public Improvement District	Defendant	Dulcinea Zdunska Hanuschak John A Helfrich Steven Owen Sims (Brownstein Hyatt Farber Schreck LLP)

*Filed pursuant to C.R.C.P. Rule 121 § 1-26.
A duly signed original is on file with the
Office of the Attorney General for the State of Colorado.*

/s/ Nan Edwards

Nan Edwards