

<p>DISTRICT COURT, WATER DIVISION 2, COLORADO</p> <p>Court Address: 501 N. Elizabeth Street, Suite 116 Pueblo, CO 81003</p> <hr/> <p>ADMINISTRATIVE ORDER NO. 17-01</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Amended March 2019</p>
<p>ADMINISTRATIVE ORDER CONCERNING DIVISION 2 WATER COURT POLICIES</p>	

The purpose of these policies is to expedite the disposition of 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.

1. File Location and Copy Requests.

- a. Cases filed during the years 1969 through 1978, except those that had outstanding conditional water rights as of September 1, 2010, are located at the Pueblo County Judicial Building, 501 N. Elizabeth Street, Pueblo, CO 81003.
- b. Cases filed during the years 1979 through 2005 and reached disposition prior to September 1, 2010, and cases filed during the years 1969 through 1978 that had outstanding conditional water rights as of September 1, 2010, are located at Colorado State Archives.

Requests for copies from these files should be made by completing Colorado State Archives' online form at

<https://www.colorado.gov/pacific/archives/request#form> .

- c. Cases filed January 1, 2006, to the present are available for viewing on Colorado Courts E-Filing (CCE). All cases pending as of January 1, 2012, have been scanned and uploaded to Colorado Courts E-Filing.

2. Publication of Applications for Water Rights in Chaffee, El Paso and Otero Counties. The Court allows publication in The Mountain Mail and The Chaffee County Times in Chaffee County; The Gazette and The Transcript in El Paso County; and the La Junta Tribune Democrat and Rocky Ford Daily Gazette in Otero County. When the Water Judge orders publication in Chaffee County, notice will be published in The Mountain Mail unless a motion and proposed order are filed requesting publication in The Chaffee County Times. When the Water Judge orders publication in El Paso County, notice will be published in The Gazette unless a motion and proposed order are filed requesting publication in The Transcript. When the Water Judge orders publication in Otero County, notice will be published in the La Junta Tribune Democrat unless a motion and proposed order are filed requesting publication in the Rocky Ford Daily Gazette.

3. Response to Summary of Consultation. At the initial status conference with the Water Referee, or at a later time 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.

4. C.R.C.P. Rule 26 Disclosures. All parties shall file **and** serve their C.R.C.P. Rule 26 disclosures via CCE.

5. Pretrial Motions.

- a. Deadline for Rule 56 Motions (91 days before trial) shall be in accordance with Water Court Rule 11(b)(9).
- b. Deadline for pretrial motions (35 days before trial) shall be governed by Water Court Rule 11(b)(9).
- c. All contested motions shall be determined pursuant to CRCP Rule 121 § 1-15.
- d. The timeframes may not be changed in any modified case management order, nor will these deadlines be extended, unless a specific motion establishing good cause is granted by the court.
- e. **Any motion, response or reply citing a statute, rule, or case law shall be submitted in editable format. The motion, response or reply should not be filed in both .pdf format and editable format; the editable version of the motion with electronic signature is sufficient.**
- f. Pursuant to C.R.C.P. 10(b), all paragraphs must be numbered

6. Exhibits to Motions.

- a. In compliance with Chief Justice Directive 11-01, each exhibit shall be a separate file within the filing submission. Any document submitted

through CCE, including exhibits, must bear a Document Title that is descriptive of the contents of that document. For example, an exhibit titled “Applicant’s Exhibit A – Smith Engineering Report” is appropriate. That same document simply bearing the Document Title, “Exhibit A” is not appropriate.

- b. If five or more exhibits are filed with a pleading or motion, an exhibit list must be filed as a separate document.

7. Proposed Orders. Proposed Orders shall be filed with all unopposed motions. Proposed Orders shall be filed with each Response or Reply if the motion is opposed, including those filed under C.R.C.P. 56. All Proposed Orders shall be in editable format and free of unnecessary formatting. No Proposed Order shall contain the word “Proposed” either in the heading or body of the document.

8. Bifurcation of Cases. Absent good cause, the Court will not bifurcate cases for the sole purpose of allowing the Applicant to obtain separate decrees.

9. 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 responsible attorney shall file a notice of the initial status conference and trial setting within 14 days of the re-referral.

- b. Available dates for the status conference and trial setting may be obtained from the Water Clerk. Dates must be cleared with the Water Clerk prior to the notice being filed.
- c. Participants at settings must have the authority to set the trial readiness conference and trial. Expert witnesses shall either participate in the setting conference or their availability for trial shall be cleared by counsel in advance of the setting. Parties should be prepared to set trial within 18 months of the setting date.
- d. All parties that have not entered into a stipulation for entry of a decree or order 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. The trial date selected will not be changed at the request of a party who did not appear at the setting conference absent extenuating circumstances and good cause shown.

10. Trial Readiness Conferences. Trial readiness conferences will be scheduled for all trials and shall occur at least 28 days prior to trial. At the 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 prior to trial.

11. Appearance by Telephone.

- a. The court allows parties to appear by telephone for trial readiness conferences and status conferences unless the court directs otherwise. For any trial readiness conference or status conference in which

parties prefer to appear by telephone, the responsible attorney shall arrange for a dial-in telephone conference and shall file and serve notice with the court of the telephone conference number. If the responsible attorney wishes to appear in person, the other parties wishing to appear by telephone shall designate one among them to arrange for and file and serve notice of a dial-in telephone conference.

- b. The Water Referee requires parties that have not entered into a stipulation for entry of a ruling to appear at status conferences by dial-in conference calls if not appearing in person. 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. If the responsible attorney wishes to appear in person, the other parties wishing to appear by telephone shall designate one among them to arrange for and file and serve notice of a dial-in telephone conference.

12. Order of Proof. At least seven (7) days in advance of trial, Applicant/Plaintiff shall file an Order of Proof setting forth the order in which each witness shall be called. Opposers/Defendants shall at least three (3) days in advance of trial file an Order of Proof setting forth the order in which each witness shall be called.

13. Trial Exhibits.

- a. **All** exhibits which are to be offered into evidence or which may be offered during the trial or otherwise utilized during the trial shall be electronically filed seven (7) days in advance of trial.

- b. Each party shall follow Chief Justice Directive 11-01 regarding the filing requirements except as modified herein. Each exhibit shall be a separate file within the filing submission. Any document submitted through CCE, including exhibits, must bear a Document Title that is descriptive of the contents of that document. For example, an exhibit titled “Applicant’s Exhibit 1 – Smith Engineering Report” is appropriate. That same document simply bearing the Document Title, “Exhibit 1” is not appropriate.
- c. All exhibits shall be pre-numbered by counsel. Any multi-page exhibits shall be Bates stamped. Applicant shall number exhibits consecutively, and Opposers shall number exhibits consecutively preceding each number with a unique letter or combination of letters identifying the Opposer offering the exhibit. The parties shall submit two (2) exhibit books to the court encompassing all exhibits (agreed and not agreed); one exhibit book shall be kept at the witness stand during the trial and shall be utilized by the witnesses. The other exhibit book shall be utilized by the Court during the trial. The exhibit books shall include an index of exhibits. The original exhibit notebooks will be released to the parties upon the court issuing the decree or order.

14. Trial Briefs. All parties planning to participate at trial may file a trial brief or memorandum outlining their claims and identifying disputed issues. Trial briefs shall be in editable format and shall be filed 21 days in advance of trial.

The parties may also include applicable legal standards in their brief, but this is not required.

15. Names and Technical Terms for Court. No later than 14 days before trial, counsel shall file with the Court:

- a. A list of all attorneys who will be present for trial;
- b. A list of names of all structures, reservoirs, ditches, canals, etc. that will be discussed at trial; and
- c. A list of unique, technical, or other words or terms that may be used during the trial and which are not common in everyday usage.

However, the list need not contain words that, although uncommon in everyday usage, are terms commonly associated with water law.

Dated: March 5, 2019.

BY THE COURT:



**Larry C. Schwartz, Water Judge
Water Division 2, State of Colorado**