

November 25, 2008

Susan J. Festag  
Clerk of the Supreme Court  
2 E. 14th Ave.  
Denver, Colorado 80203

*RE: Proposed Amendments to the Uniform Local Rules for all State Water Court Divisions and C.R.C.P. Rule 90 (Dispositions of Applications)*

Dear Ms. Festag:

Holsinger Law, LLC appreciates the opportunity to comment on the proposed amendments to the Uniform Local Rules for all State Water Court Divisions and C.R.C.P. Rule 90 (Dispositions of Applications) (collectively "water court rules").

Holsinger Law, LLC represents various water users, including applicants and objectors, and governmental and private entities. Many of our water clients are ranch and farm families from throughout Colorado. We are well-positioned to discuss potential impacts on the water users we serve. Our comments are not those of our clients.

We understand that the reasons for amending the water court rules were to create efficiencies, saving applicants and the courts time and resources. However, we have concerns with the unintended consequences these amendments will have on our clients. As discussed below, the proposed amendments could increase the burdens on water applicants.

**The proposed amendment to Rule 90 C.R.C.P. elevates the legal standard for pleading from "inquiry notice" to "substantial compliance."**

The proposed amendment to Rule 90 C.R.C.P. replaces the current "inquiry notice" standard with a "substantial compliance" standard for the water court forms. This requires an applicant to first provide adequate notice in front of the judge and again when objectors enter the process. We fear this simply provides additional burdens on the applicant and the courts.

**The proposed amendment to Water Court Rule 2 fails to provide for efficiencies already existing with current practice.**

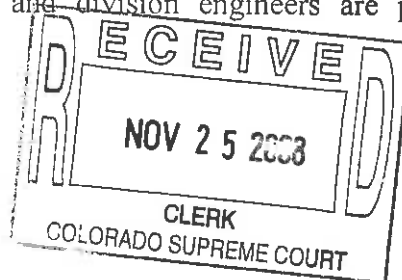
The majority of our water cases are within Divisions Five and Six. In both these Divisions, the state engineer and division engineers are provided copies of water

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**Holsinger Law, LLC**

applications and all other pleadings electronically when the applicants files via Lexis-Nexis. The proposed amendment does not reflect this standard practice and instead creates additional burdens by requiring that a paper copy of the application or statement of opposition be mailed to the state engineer and division engineer. Also, in Divisions Five and Six, the division engineer submits the consultation reports electronically via Lexis-Nexis. The proposed amendment requires that a paper copy of the consultation report be submitted to the applicant who is then required to serve the consultation report.

The proposed amendment fails to reflect the current efficient processes and creates additional burdens on the part of the applicant, the state engineer and division engineers.

**The proposed amendments to Water Court Rule 6 creates a mandatory and rigid process that will create additional burdens on applicants and the courts alike.**

The proposed amendments to Water Court Rule 6 remove the existing flexibility provided to the courts in the management of water cases. This flexibility is essential to respond to the differences of complexity that each case brings.

Requiring that every case have an extensive case management plan is unnecessary. Without a doubt, a complex case involving many opposors would greatly benefit from the court using its existing authority to manage the case. But this discretion should be left to the courts, based on the facts and circumstances of each application, and not become a requirement for every water application.

Also, the proposed amendment to Water Court Rule 6 will tend to front load requirements, such as engineering reports, that maybe unnecessary. This could result in a waste of time and resources. Our experience is that the current process works well. The existing process allows applicants to work through the requirements and provides an ability to try to negotiate a stipulated decree before submitting costly and unnecessary filings.

Thank you for the opportunity to provide written comments.

Sincerely,



Kent Holsinger