

RULE CHANGE 2014(10)

CHAPTER 36 UNIFORM LOCAL RULES FOR ALL STATE WATER COURT DIVISIONS
Rules 6 and 11

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

(a) [NO CHANGE]

(b) [NO CHANGE]

(c) [NO CHANGE]

(d) 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. If any Expert reports, disclosures, and/or opinions are presented to the referee, they shall be filed and include the signed Declaration of Expert set forth in the applicable water court form.

(e) 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 ~~630~~ 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 summary report of~~the~~ consultation is due within ~~350~~ 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 summary of consultation ~~division engineer's written report~~ is due within 4 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 summary of consultation ~~division engineer's written report~~. If the referee determines that the summary of consultation report requires a response, the applicant shall file a written response within the time specified by the referee either in the case management plan adopted under section (l) of this rule 6 or by a separate order under section (n) of this rule 6. ~~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 (o) of this Rule 6.

(f) For good cause, upon agreement of the parties, or sua sponte, the referee may extend the time for ruling on the application beyond ~~630~~ days after the last day on which statements of opposition may be filed but not to exceed a total of 1 year following the deadline for filing

statements of opposition, except that the referee may extend the time for entering a ruling to a specified date that is not more than 182 days after the expiration of the one year period, upon finding that there is a substantial likelihood that the remaining issues in the case can be resolved, without trial before the water judge, in front of the referee.

(g) [NO CHANGE]

(h) 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 63 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 proposed decree to the referee, the division engineer, and the parties in advance of the conference.

(i) [NO CHANGE]

(j) [NO CHANGE]

(k) [NO CHANGE]

(l) 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 proposed decree, the time for opposers to ~~provide~~ file the comments to the applicant on the proposed ruling and proposed 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 proposed decree. The proceedings before the referee shall be completed and the proposed ruling and proposed decree issued no later than 1 year following the deadline for filing of statements of opposition, except that the referee may extend the time as specified in subsection (f) above.

(m) [NO CHANGE]

(n) 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. In response to such requests, the division engineer may file supplemental written summary of consultation reports. The division engineer also may file a written report in response to new information in any proposed ruling or expert report filed by the applicant within the time specified by the referee. If the referee determines any written report filed by the division engineer requires a response by the applicant, the applicant shall file a written response within the time specified by the referee.

(o) [NO CHANGE]

(p) [NO CHANGE]

(q) [NO CHANGE]

COMMITTEE COMMENT

Rule 6(d), (e), (f), (h), (l) & (n)

Effective July 1, 2014, Rules 6(d), (e), (f), (h), (l) & (n) are amended to clarify the role of the division engineer during the water referee's investigation of each application and to ensure that the participation by the division engineer is clear, meaningful, transparent, and timely.

Prior to these amendments, Rule 6(e) allowed the division engineer, upon the receipt of new information, to submit to the referee and the parties additional written reports after the division engineer's initial written report on the referee's consultation with the division engineer. The amendments move this provision to Rule 6(n) and modify it to clarify that the division engineer may file such written reports in response to new information in any proposed ruling or expert report filed by the applicant within the time specified by the referee.

To provide a more clear record of consultations between the referee and the division engineer, the amendments describe and permit the division engineer's filing of the initial written summary of consultation report as well as supplemental written summary of consultation reports in response to the referee's subsequent requests for information as part of the referee's ongoing informal investigation. The amendments further clarify which documents must be filed with the court so that they are provided to and received by the parties and the division engineer and, in Rules 6(e) and 6(n), affirm the referee's ability to require the applicant to file a written response to any of the division engineer's written reports to aid in the referee's investigation. To the extent practicable, the case management plan should be written or revised to include time schedules for the division engineer filing of all written reports and responses thereto.

The amendments to Rule 6(e) and 6(n) are intended to further implement the primary purpose of the referee's role in water court proceedings: to fashion a proposed decree that, with water judge approval, can be entered as a final decree if no protest to the referee's ruling is filed with the water court within the time the statute specifies. To this end, the

General Assembly has authorized the referee to consult with the division engineer without the state or division engineer having to file a statement of opposition to the application. Rule 6 is also amended to adopt the “rule of 7” numbering for procedural time periods specified in this water court rule.

Rule 7. [NO CHANGE]

Rule 8. [NO CHANGE]

Rule 9. [NO CHANGE]

Rule 10. [NO CHANGE]

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) [NO CHANGE]

(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) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(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 35 days after the case is at issue;

(II) An opposing party's disclosure shall be made 35 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 245 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 (b)(5)(D)(I) of this Rule, and served at least 182 days before trial;

(III) An opposer's expert disclosure shall be made at least 126 days before trial;

(IV) If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party under subsection (b)(5)(B)(III) of this Rule, such expert disclosure shall be made no later than 91 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 5 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. 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 Identify Undisputed Matters of Fact and Expert Opinion and To Refine and Attempt to Resolve Disputed Matters of Fact and Expert Opinion.

(I) The expert witness(es) for the applicant and the opposer(s) shall meet within 49 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 matters of fact and expert opinion that are the subject of the expert(s) disclosures and with respect to such disclosures: to identify undisputed matters of fact and expert opinion, to attempt to resolve disputed matters of fact and expert opinion, and to identify the remaining matters of fact and expert opinion in dispute. The applicant may subsequently file a supplemental disclosure pursuant to Water Court Rule 11(b)(5)(B)(II) to address matters of fact and expert opinion 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 28 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 matters of fact and expert opinion that are the subject of the expert(s) disclosures and, with respect to such disclosures: to

identify undisputed matters of fact and expert opinion, to attempt to resolve disputed matters of fact and expert opinion, and to identify the remaining matters of fact and expert opinion in dispute. Within 21 days after such meeting, the experts shall jointly submit to the parties a written statement setting forth the disputed matters of fact and expert opinion that they believe remain for trial, as well as the undisputed matters of fact and expert opinion, arising from the expert disclosures.

(III) The content of the meetings of the experts and the written statement prepared pursuant to Water Court Rule 11(b)(5)(D)(II) shall be considered as conduct or statements made in compromise negotiations within the ambit of CRE 408. ~~For this reason, notes taken by the experts or other records of the discussion during these meetings shall~~In addition, the content of the meetings, including notes taken by the experts or other records of the discussion during these meetings, are not be discoverable, and none of the content of the meetings of the experts or the written statement prepared shall be admissible at trial and can only be used for purposes of the preparation of the written statements and reports required or permitted by Water Court Rule 11(b)(5)(D). The meetings of the experts shall not include the attorneys for the parties or the parties themselves, unless they are the designated expert_s(s).

(E) [NO CHANGE]

(F) [NO CHANGE]

(6) [NO CHANGE]

(7) [NO CHANGE]

(8) [NO CHANGE]

(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 ~~94~~84 days before the trial date.

(10) [NO CHANGE]

(c) [NO CHANGE]

(d) [NO CHANGE]

COMMITTEE COMMENT

Rule 11(b)(5)(D)(III)

Amended Rule 11, which became effective July 1, 2009, provides for meetings of the experts without attorneys for the parties or the parties themselves. Effective July 1, 2011, Rule 11(b)(5)(D)(III) was amended, nunc pro tunc on and after July 1, 2009, to make explicit the non-discoverability and non-admissibility of the notes, records, content of discussions, and the experts' written statement prepared in accordance with Rule

11(b)(5)(D)(II). In response to arguments that this provision does not prohibit use of such material in pretrial proceedings, Rule 11(b)(5)(D)(III) is further amended to clarify the original intent of the rule that the only permissible use of information from the expert meetings is for purposes of the preparation of the written statements and reports required or permitted by Rule 11(b)(5)(D). This clarifying change applies nunc pro tunc on and after July 1, 2009.

Rule 11(b)(9)

Effective July 1, 2014, Rule 11(b)(9) is amended to require that pretrial motions pursuant to C.R.C.P. 56 be filed 84 days before trial instead of 91 days before trial to allow the parties time to review any expert rebuttal reports prior to filing any Rule 56 motions. The purpose of this amendment is to reduce the potential for unnecessary, inappropriate, or moot motions or supplemental filings by the parties to address any new information in expert rebuttal reports.

Amended Rule 11, which became effective July 1, 2009, provides for meetings of the experts without attorneys for the parties or the parties themselves. Effective July 1, 2011, Rule 11 is further amended in subsection (b)(5)(D)(III) to make explicit the non-discoverability and non-admissibility of the notes, records, content of discussions, and written statement prepared by the experts in accordance with the rule, and, further, to clarify that the meetings of the experts exclude attorneys for the parties or the parties themselves unless they are designated experts. These clarifying changes apply nunc pro tunc on and after July 1, 2009.

In addition, the following Suggested Guide is included in this Comment by way of example for conduct of the meetings of the experts and preparation of the joint written statement of the experts.

Suggested Guide for Conducting Meetings of the Experts in Water Court Proceedings and Preparing Written Statement

Introduction

The purpose of this guide is to assist experts engaged in water court cases to efficiently conduct the first and second meetings of the experts described in Water Court Rule 11 and prepare the written statement of the experts. As the title above indicates, this guide provides suggested procedures and guidelines in conducting these meetings and preparing the written statement. The experts in each case may adapt these guidelines for their own specific circumstances.

Conduct of the Two Meetings

Meeting Notes:

Water Court Rule 11(b)(5)(D)(III), as amended effective July 1, 2011 nunc pro tunc on and after July 1, 2009 reads:

- “The content of the meetings of the experts and the written statement prepared pursuant to Water Court Rule 11(b)(5)(D)(II) shall be considered as conduct or statements made in

compromise negotiations within the ambit of CRE 408. For this reason, notes taken by the experts or other records of the discussion during these meetings shall not be discoverable, and none of the content of the meetings of the experts or the written statement prepared shall be admissible at trial. The meetings of the experts shall not include the attorneys for the parties or the parties themselves, unless they are the designated expert(s).”

Tips for Conducting the Meetings of Experts:

- Applicant’s expert is the chair and therefore controls the flow of the meetings. If the Applicant has more than one expert in the case, one of its experts should be designated to run the meeting.
- Pass a signup sheet for names, phone numbers and email addresses.
- Prepare an agenda and stick to it.
- Limit protracted discussions and arguing.
- Don’t become entangled in difficult issues and fail to cover others.
- OK to identify legal issues, but don’t argue and discuss in detail.
- Try to keep meetings to a reasonable length.
- Participation in person is encouraged.

Scheduling the Meetings of the Experts:

Scheduling of the meetings of the experts is to be initiated by counsel for the parties, led by the attorney for the Applicant. The selected date should involve the largest number of participating experts possible. If scheduling does not permit one or more experts to attend, they have the option of submitting initial comments to the group via email prior to the meeting.

First Meeting of the Experts

Excerpt from Rule 11(b)(5)(D)(I):

“Meeting Of Experts To Identify Undisputed Matters of Fact and Expert Opinion and To Refine and Attempt to Resolve Disputed Matters of Fact and Expert Opinion.

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 matters of fact and expert opinion that are the subject of the expert(s) disclosures and with respect to such disclosures: to identify undisputed matters of fact and expert opinion, to attempt to resolve disputed matters of fact and expert opinion, and to identify the remaining matters of fact and expert opinion in dispute.

The applicant may subsequently file a supplemental disclosure pursuant to Water Court Rule 11(b)(5)(B)(II) to address matters of fact and expert opinion resolved in or arising from the meeting(s) of the experts.”

Timing of First Meeting:

Within 45 days following Applicant’s initial expert disclosures.

Goals:

- Allow Applicant’s experts to explain the engineering approach in the application.
- Identify and screen issues pertaining to facts and expert opinions.
- Discuss Applicant’s draft decree provisions dealing with issues of fact and expert opinion.
- Enable Applicant’s experts to address potentially solvable issues of fact and expert opinion in a supplemental report prior to the opposers’ disclosures.
- Clarify issues of fact and expert opinion and clear up misunderstandings relating to the case.
- Exchange information, such as additional backup data and calculations relating to the expert disclosures.

Not Goals:

- Solve legal issues.
- Achieve final settlement of the case.
- Engage in unproductive argument.
- Write decree language.

Suggested Sample Agenda for First Meeting of the Experts:

- Introductions, roll call, pass signup sheet.
- Set ground rules and goals of expert meeting.
- Applicant’s experts give a brief overview of the application.
- Applicant’s experts walk through facets of case, one at a time.

- Poll opposers' experts for whether or not they have issues for each facet.
- Note and put aside contested issues for later discussion.
- Opposers' experts discuss concerns regarding Applicant's initial disclosures.
 - Go around table, each opposer's expert provides brief discussion of areas of disagreement.
 - Provide alternative approaches if applicable.
- Applicant's experts verbally summarize issues discussed in meeting.
 - Categorize issues into areas of agreement and disagreement.
- Q&A Session
 - Exchange of information, arrange to provide additional backup information, if necessary.
- Schedule second meeting of the experts, if appropriate.
- Adjourn

Second Meeting of the Experts

Excerpt from Rule 11(b)(5)(D)(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 matters of fact and expert opinion that are the subject of the expert(s) disclosures and, with respect to such disclosures: to identify undisputed matters of fact and expert opinion, to attempt to resolve disputed matters of fact and expert opinion, and to identify the remaining matters of fact and expert opinion in dispute. Within 15 days after such meeting the experts shall jointly submit to the parties a written statement setting forth the disputed matters of fact and expert opinion that they believe remain for trial, as well as the undisputed matters of fact and expert opinion, arising from the expert disclosures.”

Timing of Second Meeting:

Within 25 days following Opposers' expert disclosures.

Goals:

- Identify and screen remaining disputed matters of facts and expert opinion.

- Discuss decree provisions dealing with matters of fact and expert opinion.
- Enable Applicant's experts to address potentially solvable matters of fact and expert opinion in their forthcoming rebuttal reports.
- Organize a plan and schedule for preparing joint written statement setting forth disputed and undisputed matters of fact and expert opinion.

Not Goals:

- Solve legal issues.
- Achieve final settlement of the case.
- Engage in unproductive argument.
- Write decree language.

Suggested Sample Agenda for Second Meeting of the Experts:

- Introductions, roll call, pass signup sheet.
- Set ground rules and goals for meeting.
- Applicant's experts walk through matters of fact and expert opinion identified in objectors' expert disclosures. Applicant's experts do the following for each issue:
 - Summarize the matter.
 - Identify which parties' experts raised the matter.
 - Ask objectors' experts for additional explanation or clarification, if necessary.
 - Indicate whether issue appears to be resolvable, not resolvable, or if there may be common ground to limit the issue.
 - Call on objectors' experts to comment on matter, and possible common ground.
 - Repeat for each matter.
- Objectors' experts indicate if there are other matters of fact and expert opinion that were not discussed by the Applicant's experts.
- Discuss process and schedule to prepare joint written statement.

- One of the Applicant’s experts prepares first draft and emails to objectors’ experts. This should be done quickly while contents of meeting are fresh.
 - Objectors’ experts email comments on draft written statement to all experts.
 - One of Applicant’s experts prepares final joint written statement, considering comments from objectors’ experts. If, based on the comments from objectors’ experts, any disagreement exists as to how an issue is summarized, then this disagreement should be set forth in the final joint written statement.
 - One of Applicant’s experts submits final joint written statement to all experts and to Applicant’s attorney for distribution to parties.
- Adjourn meeting

Purpose of Joint Written Statement

Excerpt from Rule 11(b)(5)(D)(II):

“Within 15 days after such meeting the experts shall jointly submit to the parties a written statement setting forth the disputed matters of fact and expert opinion that they believe remain for trial, as well as the undisputed matters of fact and expert opinion, arising from the expert disclosures.”

The written statement is not admissible at trial. The statement will be provided to all the parties and will be used by the attorneys when preparing a statement that will be filed with the court setting forth the undisputed matters of fact and expert opinion and the disputed matters of fact and expert opinion that remain for trial.

Suggested Process to Prepare Joint Written Statement

One of the last agenda items for the second meeting of the experts should be discussion of the process, schedule and content of the joint written statement. One of the Applicant’s experts should take the lead and prepare the first draft of the statement and send it to the other experts in the case. This should be done immediately after the meeting. Opposers’ experts should promptly provide comments to Applicant’s experts. If the experts cannot agree on specific language in the statement, this disagreement should be noted in the document. For guidance only, the following is a suggested outline of a sample written statement of the experts.

Suggested Outline of Sample Written Statement of the Experts

Case No. [xxCWxxx]

Applicant: [name of applicant]

Joint Statement of Undisputed Matters of Fact and Expert Opinion
and Remaining Disputed Matters of Fact and Expert Opinion

[Date]

In accordance with Water Court Rule 11(b)(5)(D)(II) and the Case Management Order in Case No. [xxCWxxx], the experts shall jointly submit to the parties a written statement setting forth the disputed matters of fact and expert opinion that they believe remain for trial, as well as the undisputed matters of fact and expert opinion, arising from the expert disclosures. The first meeting of the experts working on this case was held at [location] on [date]. In attendance were [list of attendees, the objector that they represent, and whether they attended in person or by phone]. The second meeting of the experts in this application met at [location] on [date]. In attendance were [list of attendees, the objector that they represent, and whether they attended in person or by phone]. A draft of the joint written statement was prepared by [expert for applicant] and was delivered to the experts for objectors [objector No. 1, name of expert(s)], [objector No. 2, name of expert(s)], [objector No. 3, name of expert(s)] on [date]. Written comments were received via email from [name of expert] on [date] and [name of expert] on [date]. The following summarizes the undisputed the disputed matters of fact and expert opinion.

Undisputed Matters of Fact and Expert Opinion

[The following is a small sample list of possible matters, depending on the case involved]

1. Use of the Glover bounded alluvial aquifer method with the input parameters included in Table x of the Applicant's Supplemental Expert Report is an appropriate method to determine the lagging of stream depletions from the subject wells included in the application.
2. A study period of 1950 through 2003 is an acceptable period of analysis for historical use of the xyz Ditch.
3. The historically irrigated area for the XYZ Ditch was 120 acres.
4. The historical cropping pattern for the XYZ Ditch was 50% corn and 50% alfalfa.
5. There is sufficient unappropriated water available in the Hopeful River Basin to justify the junior conditional storage right for the ABC Reservoir.
6. Use of a Modflow-based numerical ground water model is an appropriate method for estimating lagging of recharge accretions.

Remaining Disputed Issues of Fact and Expert Opinion

[The following is a small sample list of possible matters, depending on the case involved]

1. Whether or not the assumed 60 percent maximum irrigation field efficiency is appropriate for the subject irrigated lands under the xyz Ditch
2. Whether or not the 120 acres will dry up following the cessation of irrigation, or will evapotranspiration occur from shallow ground water.

3. Whether or not separate flow méters are needed to measure water pumped to each separate use under the wells.
4. Whether or not a 5 year projection tool for the plan for augmentation is sufficiently long to prevent injury.
5. Whether or not the Applicant has established a specific plan to use the water stored in the ABC Reservoir for industrial uses.
6. Whether or not the method of calculating future evaporation from the ABC Reservoir proposed by the Applicant is sufficient to prevent injury.
7. Whether the GGG Ditch historically irrigated 100 acres of land. Some of the objectors feel that there is insufficient factual basis to support the claimed 100 acres, and assert that additional investigation is needed.
8. Whether the river conductance value used by the Applicant in its Modflow River Package is correct.

Signed,

[Expert No. 1]

[Expert No. 2]

[Expert No. 3]

[Expert No. 4]

Amended and Adopted by the Court, En Banc, June 26, 2014, effective July 1, 2014.

By the Court:



**Gregory J. Hobbs, Jr.
Justice, Colorado Supreme Court**