

**Colorado Supreme Court Water Court Committee
Minutes of October 26, 2015 Meeting**

The Colorado Supreme Court Water Court Committee was called to order by Justice Allison Eid at 1:00 p.m., in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

Name	Present	Excused
Justice Allison Eid, Chair	X	
Justice (Ret.) Gregory Hobbs	X	
Judge (Ret.) John Kuenhold		X
Judge (Ret.) Thomas Ossola		X
Referee John Cowan	X	
Referee Holly Strablizky	X	
Gerald Marroney		X
Casey Shpall	X	
Dick Wolfe	X	
Steve Witte	X	
James Eklund		X
Robert Sakata		X
Bill Trampe	X	
Doug Clements		X
Jennifer Ashworth	X	
Mark Hamilton	X	
Mark Hermundstad		X
Andy Jones		X
David Robbins	X	
Jim Witwer	X	
Doug Sinor		X
Non-voting Participants		
Andrew Rottman	X	
Jenny Moore	X	

- I. Attachments & Handouts**
 - A. October 26, 2015 Agenda
 - B. Allen D. Miller Comments
- II. Welcome and Introductions**
- III. Membership, Roster, and Terms**

Justice Eid discussed committee membership and terms. Previously, committee members were appointed without a term length. In order to keep the membership active and current, the committee members will now serve three year terms that are renewable upon the member's request. Current terms will expire December 31, 2018.

Justice Eid circulated a membership list and asked that everyone verify their contact information.

IV. Report on October 9 CLE (Jennifer Ashworth)

Jennifer Ashworth presented a summary of the October 9 CLE. There were a number of subjects discussed at the CLE which could be topics of interest for the committee. These topics were addressed individually in the open discussion of future projects.

V. Open Discussion of Committee Status and Future Projects

The committee discussed the issues of client involvement in water court proceedings and client involvement in expert meetings. The committee then discussed whether mediation or some other type of alternative dispute resolution should be explicitly mentioned in the rules, which might facilitate client involvement and case settlement. The committee agreed to form a subcommittee and move forward with examining a mediation or alternative dispute resolution rule change. This subcommittee will include John Cowan as chair, and members Judge Kuenhold, Dick Wolfe, Casey Shpall, Mark Hamilton, and ideally a client representative.

The committee then discussed the party status of the State and Division Engineers in water court cases and how that status may change as the case proceeds. The discussion was primarily centered on the consultation process, the Engineers' party status after the summary of consultation, the 2014 rule changes, and judicial education regarding the role of the Engineers. Justice Eid will follow up on this topic with Casey Shpall, head of the referee subcommittee.

Referee Strablizky then described an ongoing issue in abandonment proceedings. Referee Strablizky explained that there are gaps in the rules and process after a water right is placed on the abandonment list, and there is no clear guidance on how courts or referees are to proceed at certain points in the process. This problem occurs every ten years, and the committee agreed that a subcommittee should look into rule changes that would solve the problem. Referee Strablizky will chair a subcommittee to address the issue. Dick Wolfe, Steve Witte, and Andy Rottman will also serve on the subcommittee.

Jim Witwer raised the issue that the Colorado Supreme Court does not publicly announce the water cases appealed to it. In some instances the water bar is caught off guard and does not have an opportunity to file amicus briefs in these cases. Jenny Moore and Andy Rottman will work on an announcement system for water cases.

Jennifer Ashworth discussed the need for updating and refreshing the content of water law CLEs. Jennifer Ashworth and Doug Clements, chair of the education subcommittee, will work on this issue.

Jim Witwer raised a concern about the duty to preserve evidence in diligence proceedings for conditional water rights. Mr. Witwer stated he did not know whether the rules committee was the proper forum to address the problem. Mr. Witwer will further develop this issue and the committee will discuss it at a later date.

Referee Strablizky discussed an issue with referees and the timeframes established in the 2009 rules. Referee Strablizky was concerned that the 18-month deadline for cases in front of a referee is not uniformly followed. Justice Eid will follow up with Casey Shpall on this issue.

Referee Strablizky notified the committee that the Division 5 Bench Bar conference is set for January 15, 2016.

VI. Next Meeting Date

The next meeting will be held in April 2016.

The Committee adjourned.

*Respectfully submitted,
Andrew Rottman*