

<p><b>DISTRICT COURT, WATER DIVISION 2, COLORADO</b></p> <p>Court Address: 501 N. Elizabeth Street, Suite 116 Pueblo, CO 81003</p> <hr/> <p><b>CONCERNING THE FINAL DECENNIAL ABANDONMENT LIST FOR WATER DIVISION NO. 2</b></p>	<p style="text-align: center;">▲ <b>COURT USE ONLY</b> ▲</p>
	<p>Case Number:2021CW3078</p>
<p><b>ADMINISTRATIVE ORDER CONCERNING BIFURCATED PROTEST CASES</b></p>	

The purpose of this Administrative Order is to expedite the disposition of bifurcated protest cases. 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. A protest to the Final Revised Abandonment List (JDF 304W) shall be filed in Water Division 2 Case No. 2021CW3078 (original case in which the decennial abandonment list was filed). If the protest is filed by an attorney, it shall be filed as a “Non-Party” and shall not be served to anyone in the original case.

2. The Water 2 Division clerk shall upon accepting the protest automatically create a bifurcated protest case under a new case number, apply the filing fee to the new case, upload the protest (JDF 304W) filed into the new bifurcated case and serve the protest to all parties in the bifurcated protest case. The State and Division 2 Engineer shall be entered as “Applicant” in the bifurcated protest case and the same attorneys for the Engineers as in the 2021CW3078 case shall be entered as counsel of record. The protester shall be entered as an “Opposer” in the bifurcated protest case and counsel of record shall be entered by the clerk based upon the attorney filing the protest. All pleadings in the bifurcated protest case shall include the bifurcated protest case number and the Final Revised Abandonment List Case No. 2021CW3078.
3. Any person who may be affected by the subject matter of a protest or by a ruling thereon and desiring to participate in any protest hearing must file an entry of appearance (JDF 320W) in the bifurcated protest case **on or before August 31, 2022**. The party filing an entry of appearance shall be entered as “Protestant” in the bifurcated protest case.
4. Under Rule 12 (d) and (e) of the Uniform Local Rules for All State Water Court Divisions, the “**at issue date**” for all bifurcated protest cases filed regarding the 2021 FINAL REVISED ABANDONMENT LIST in Water Division 2 shall be **October 19, 2022**, unless adjusted by the court in a specific bifurcated protest case.

5. The provisions of C.R.C.P. 16 and 26 through 37 shall apply except that they shall be modified by the provisions of Rule 11(b)(2) – (10) and (c) of the Uniform Local Rules for All State Water Court Divisions, and same shall control the pre-trial procedure, case management, disclosure and simplification of issues for all bifurcated protest cases.
6. **C.R.C.P. Rule 26 Disclosures.** All parties shall file and serve their C.R.C.P. Rule 26 disclosures by using the Colorado Courts E-Filing system.
7. **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.

**8. 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 Colorado Courts E-Filing system, including exhibits, must bear a Document Title that is descriptive of the contents of that document. For example, an exhibit titled “Opposer’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.

- 9. 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. The date format on the order shall be as follows “Date:\_\_\_\_\_”.

- 10. Initial Status Conference and Trial Setting.** All bifurcated protest cases shall come before the court on **November 15, 2022 beginning at 8:30 a.m.** on a trailing docket.

- a. Each bifurcated protest case shall be called in case number order.

- b. Applicant in each bifurcated protest case shall **on or before October 1, 2022** send notice of the initial status conference and trial setting to each Opposer and Protestant.
- c. Participants on **November 15, 2022** at the initial status conference and trial setting may appear either in person or through the Court's virtual courtroom via Webex.
- i. Virtual courtroom information for Webex:  
<https://judicial.webex.com/meet/larryc.schwartz>
  - ii. For further instructions you can view the 10th Judicial District Website for virtual courtrooms at  
[https://www.courts.state.co.us/Courts/District/Index.cfm?District\\_ID=10](https://www.courts.state.co.us/Courts/District/Index.cfm?District_ID=10)  
Meeting number (access code): 923 800 435  
**Join by phone**  
+1-415-655-0001 US Toll  
+1-720-650-7664 United States Toll (Denver)
  - iii. Courtroom 406 will be open to any party or attorney desiring to appear in person for the initial status conference and trial setting or any status conference.
- d. Participants on **November 15, 2022** at the initial status conference and trial setting must have the authority to set the trial readiness conference and trial.

- e. Expert witnesses shall either participate in the setting conference or their availability for trial shall be cleared by counsel in advance of the setting.
- f. Parties shall be prepared to set trial during the late summer/fall of 2023 or later depending on calendars and issues.
- g. All parties that have not entered into a stipulation to resolve the protest are required to attend all status conferences. 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.

**11. 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.

**12. Order of Proof.** At least seven (7) days in advance of trial, Applicant shall file an Order of Proof setting forth the order in which each witness shall be called. Opposers 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 Colorado Courts E-Filing system, 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 (unless the court enters a different order in a specific case) 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 order and final decree.

**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.

**16. Public Wi-Fi.** The parties are hereby informed that the courtroom does have access to the internet by way of a Public/Guest Wi-Fi. To ensure that a wireless username and password is established prior to the commencement of trial, parties wishing to access the internet from the courtroom by way of Public/Guest Wi-Fi should contact the administrative offices for the Tenth Judicial District seven (7) days in advance of trial to request a wireless

username and password. The request can be made by contacting Crystal McDonald at (719) 404-48969 or [crystal.mcdonald@judicial.state.co.us](mailto:crystal.mcdonald@judicial.state.co.us).

**17. Court Reporter.** A court reporter employed by the 10<sup>th</sup> Judicial District will not be available to report for a trial. The parties may utilize a private court reporter at trial; however, the court reporter should have real-time capability. A standardized agreement must be signed by the private court reporter with the 10<sup>th</sup> Judicial District on or before the first day of trial.

Dated: May 11, 2022

**BY THE COURT:**



*Larry C. Schwartz*

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LARRY C. SCHWARTZ,  
WATER JUDGE  
WATER DIVISION 2