



Legislation Details (With Text)

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Title: A Resolution Authorizing the Filing of Water Court Applications for Change of Water Rights, Augmentation Plan and Appropriative Rights of Exchange related to the City of Colorado Springs' Interests in Water Rights of the Chilcott Ditch Company

Presenter:
Wayne Vanderschuere, Planning Engineering and Resource General Manager, Water Services Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

Sponsors:

Indexes:

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Attachments: 1. 4-Resolution-Chilcott Reamy Change Case 6-28-16, 2. Signed Resolution 69-16.pdf

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| 6/28/2016 | 1 | City Council | adopted | Pass |

A Resolution Authorizing the Filing of Water Court Applications for Change of Water Rights, Augmentation Plan and Appropriative Rights of Exchange related to the City of Colorado Springs' Interests in Water Rights of the Chilcott Ditch Company

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Summary:

Colorado Springs Utilities must file a water rights change case to fully utilize the water rights represented by the Chilcott Ditch Company share it purchased in December, 2015.

Previous Council Action:

By Resolution No. 15-15, City Council authorized Utilities to file water rights applications related to 8 shares of the Chilcott Ditch Company Utilities purchased in 2014.

Background:

Last year City Council approved Utilities' purchase of one share of stock in the Chilcott Ditch Company (Chilcott). Utilities successfully closed on its purchase of that share on December 2, 2015. The water rights represented by the Chilcott share can currently be used for irrigation purposes only. Thus, to most effectively use the water represented by the Chilcott share, Utilities must file a water rights change case with the Division 2, Water Court. In March 2015, Utilities filed an application in Water Court, Division 2 Case No. 2015CW3001 to change eight Chilcott shares that Utilities

purchased in December 2014. Utilities is planning on amending the 2015CW3001 change case application to include the Chilcott share that was purchased at the end of 2015. Utilities will be obtaining Chilcott Board support prior to filing the amendment to the 2015CW3001 change case application.

Once the 2015CW3001 change case is decreed, the water will be used by Utilities for all municipal uses including, without limitation, domestic, agricultural, industrial, commercial, irrigation, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver basin aquifers, exchange, replacement of historical return flows, augmentation, and sale or lease to other water users.

Most Chilcott shares have been changed to include municipal, augmentation, irrigation, industrial, and all other uses by other shareholders. The shareholders who previously changed the use of their Chilcott shares were required to abandon their *pro rata* interest in a very junior Chilcott Ditch water right that is represented by the shares. Utilities was aware of this requirement at the time of purchase and therefore did not include any water from this junior priority in the estimate of historical yield per Chilcott share. The abandonment of this junior priority reconciles water right administration with historical practice and legal precedent. This junior water right does not represent any real water interest because of its very junior priority. By Resolution No. 14-15, City Council authorized Utilities to take the steps necessary to abandon its *pro rata* interest in this same junior water right of the 8 Chilcott Ditch Company shares Utilities purchased in 2014.

Once the amendment to 2015CW3001 water rights change case application has been filed, Utilities plans on filing additional water rights applications allowing for the use of the FMIC and Chilcott water rights for augmentation, municipal uses, exchange, and any other uses beneficial to Utilities.

Financial Implications:

N/A

Board/Commission Recommendation:

N/A

Stakeholder Process:

N/A

Alternatives:

N/A

Proposed Motion:

Move to approve Resolution directing Utilities to proceed with the water rights applications.

N/A