



## Legislation Text

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File #: 15-00142, Version: 1

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### **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 Fountain Mutual Irrigation Company and Chilcott Ditch Company**

**From:**

Jerry Forte, Chief Executive Officer, Colorado Springs Utilities

**Summary:**

Colorado Springs Utilities must file water rights change cases to fully utilize the water rights represented by the Fountain Mutual Irrigation Company shares and Chilcott Ditch Company shares it recently purchased.

**Previous Council Action:**

N/A

**Background:**

Last year City Council approved Utilities' purchase of 144 shares of stock in the Fountain Mutual Irrigation Company (FMIC) and eight shares of stock in the Chilcott Ditch Company (Chilcott). Utilities successfully closed on its purchase of those shares on December 10, 2014. The water rights represented by both the FMIC and Chilcott shares can currently be used for irrigation purposes only. Thus, to most effectively use the water represented by those ditch company shares, Utilities must file water rights change cases with the Division 2 Water Court. The Purchase and Sale Agreement for the FMIC and Chilcott shares required that Utilities file the applications for the water rights change cases by March 10, 2015. Once the change cases are 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.

Other FMIC shareholders have filed similar change cases in the past for municipal, augmentation, irrigation, industrial, and other uses. Utilities will be obtaining FMIC Board support prior to filing the change case application.

Most Chilcott shares have also been changed to include municipal, augmentation, irrigation, industrial, and all other uses by other shareholders. As with the FMIC change case, Utilities will be obtaining Chilcott Board support prior to filing the change case application. The Chilcott change case will require one nuance that is not required for the FMIC change case. 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 right in the estimate of historical yield per Chilcott share. The abandonment of the junior water right amounts to an accounting clean-up rather than an abandonment of any real water interest.

Once the water rights change case applications have been filed, Utilities will file 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:**

To be determined at the February 18, 2015 Utilities Board meeting.

**Stakeholder Process:**

N/A

**Alternatives:**

N/A

**Proposed Motion:**

Approval of Resolutions xx-15 directing Utilities to proceed with the water rights applications.

N/A