



## Legislation Text

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**File #:** 17-868, **Version:** 1

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### **A Resolution Authorizing Colorado Springs Utilities to Take All Actions Necessary to Remove Certain Water Rights from the State of Colorado's Water Rights Tabulations**

#### **Presenter:**

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#### **Summary:**

Colorado Springs Utilities is requesting that City Council approve the attached Resolution Authorizing Colorado Springs Utilities to Take All Actions Necessary to Remove Certain Water Rights from the State of Colorado's Water Rights Tabulations on the consent calendar at the March 14, 2017 City Council meeting.

#### **Previous Council Action:**

N/A

#### **Background:**

The City of Colorado Springs, on behalf of Colorado Springs Utilities ("Utilities"), owns conditional water rights for the Roby Ditch and Reservoir and the Chancellor Wells No. 1 and No. 2 ("Subject Water Rights"). Under Colorado Water Law, water rights may be either "absolute" or "conditional". A water user may claim an absolute water right if they can demonstrate that the water has been put to beneficial use, or a conditional water right if they have taken a substantial first step, but have not completed an appropriation of water for beneficial use. Utilities typically makes conditional water rights absolute by constructing and operating new infrastructure which allows the new water source to be applied to its decreed beneficial uses (e.g., municipal uses, storage, etc.) To maintain a conditional water right, the owner is required to file an application in the Water Court every six years to prove the owner's diligent efforts to fully develop the conditional water right and put the right to beneficial use within a reasonable period of time.

On August 30, 2016, the City Attorney's Office filed water rights applications in Case Nos. 16CW3053 (Chancellor Wells) and 16CW3054 (Roby Ditch and Reservoir) requesting that the Water Court find that Utilities has been diligent in its efforts to develop the Subject Water Rights. On November 7, 2016, the Division Engineer filed Consultation Reports with the Water Court that set forth concerns he had with these diligence applications. The primary concerns the Division Engineer raised with regard to both diligence applications were that Utilities has not taken any recent steps to develop the Subject Water Rights, and integrate them into the Utilities' water system, and put them to beneficial use. The Division Engineer requested that Utilities provide plans for developing the rights and connecting them to its water system. Utilities filed responses to the Consultation Reports informing

the Water Court and the Division Engineer that Utilities is evaluating its options with regard to the Subject Water Rights and will provide the Water Court and the Division Engineer with a report on the results of the evaluation by April 14, 2017.

Utilities has reviewed the utility and expected yield of the Subject Water Rights to Utilities, as well as the legal and engineering costs and resources required to address the Division Engineer's concerns, to defend the pending diligence applications and to otherwise maintain reasonable diligence for these conditional water rights in the future. Based on this review, Utilities has determined that the utility and yield of the rights do not justify the cost and effort required to develop and maintain the rights given the junior priorities of the Subject Water Rights, their expected yield, and their location in relation to Utilities' water supply system. In addition, abandoning the Subject Water Rights is consistent with industry standard best practices of water providers periodically evaluating their water rights portfolio and retiring those water rights that do not generate yield, do not provide operational benefit, or are otherwise unnecessary. As such, Utilities recommends that the City Council approve a resolution directing Utilities to take the steps necessary to abandon the City's interest in the Subject Water Rights at the March 14, 2017 City Council meeting.

**Financial Implications:**

N/A

**Board/Commission Recommendation:**

N/A

**Stakeholder Process:**

N/A

**Alternatives:**

City Council could: 1) approve the proposed resolution on the consent calendar at the March 14, 2017 meeting; or 2) not approve the proposed resolution.

**Proposed Motion:**

Approval of proposed resolution directing Utilities to take the steps necessary to abandon the City's interest in the conditional water rights for the Roby Ditch and Reservoir, Chancellor Well No. 1 and Chancellor Well No. 2 on the consent calendar at the March 14, 2017 City Council Meeting.

N/A