

<p>Before the Ground Water Commission, Colorado 1313 Sherman St., Rm 821, Denver, CO 80203</p>	
<p>IN THE MATTER OF THE PETITION TO THE COLORADO GROUND WATER COMMISSION FOR RULEMAKING TO AMEND RULE 5.2.9 OF THE RULES AND REGULATIONS FOR THE MANAGEMENT AND CONTROL OF DESIGNATED GROUND WATER TO DETERMINE THAT THE ALLUVIAL AQUIFER, FAN AQUIFERS, AND WHITE RIVER AQUIFER OF THE UPPER CROW CREEK DESIGNATED GROUND WATER BASIN ARE OVERAPPROPRIATED, THEREBY REQUIRING REPLACEMENT PLANS FOR ISSUANCE OF NEW LARGE CAPACITY WELL PERMITS THEREIN</p> <p>In the Upper Crow Creek Designated Ground Water Basin</p> <p>In Weld County</p>	<p>COMMISSION USE ONLY</p> <hr/> <p>Case No. 16-GW-04</p>
<p style="text-align: center;"><b>NOTICE OF PUBLIC RULEMAKING HEARING</b></p>	

I. STATEMENT OF BASIS AND PURPOSE

This is a notice of a public rulemaking hearing before the Colorado Ground Water Commission (“Commission”) for consideration of amendments to the Commission’s Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 (“Commission’s Rules”).

The Commission’s Rules and any amendments thereto are promulgated pursuant to section 37-90-111(1)(h), C.R.S to carry out the authority and responsibilities of the Commission to supervise and control the exercise and administration of rights acquired to the use of designated ground water. The proceedings will be conducted pursuant to the Commission’s Rules for Procedure for All Hearings before the Colorado Ground Water Commission, 2 CCR 402-3 (“Procedural Rules”).

The purpose of the proposed amendment to Rule 5.2.9 is to determine that the Alluvial Aquifer, Fan Aquifer and White River Aquifer within the Upper Crow Creek Designated Ground Water Basin are over appropriated, requiring approval of a replacement plan to obtain new large capacity well permits in those aquifers.

## II. DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED

Loyd Farms, Vonda J. Teitmeyer, BCK Heath Property, LLC, and Dennis Ziteck, the “Petitioners,” submitted to the Commission at its August 19, 2016 meeting a petition requesting this amendment to the Commission’s Rules. At its November 18, 2016 meeting the Commission authorized Staff to file a notice of rulemaking hearing with the Secretary of State. A rulemaking hearing is scheduled for the Commission’s February 17, 2017 meeting.

A copy of the Applicant’s Petition containing the language of the proposed rule change is posted on the Commission’s website at <http://water.state.co.us/cgwc/>, or is available upon request to the Commission’s Staff (1313 Sherman Street, Room 821, Denver, CO 80203; telephone (303) 866-3581, email contact: keith.vanderhorst@state.co.us). The Commission will consider any alternative proposals related to the proposed amendments.

## III. SPECIFIC STATUTORY AUTHORITY

The statutory authority for promulgating the Commission’s Rules and any amendments thereto is found at section 37-90-111(1)(h), C.R.S.

## IV. PUBLIC PARTICIPATION

### Party Status

The Notice of Rulemaking Hearing will be published on December 25, 2016. Applications for party status will be accepted through January 15, 2017. The applications will be reviewed in accordance with Rule 4.E of the Procedural Rules. Applications for party status shall set forth the name of the person, persons or agency seeking party status. The application shall also indicate the interest of the person(s) in the proposed rules and a description of the general nature of the evidence or information to be presented in the course of the proceedings. Staff of the Commission is automatically a party to the rulemaking proceeding before the Commission pursuant to Rule 4.E.5 of the Procedural Rules.

### Written Comments

Pursuant to Rule 4.I.1 of the Procedural Rules parties and interested persons shall be afforded the opportunity to submit written data at the rulemaking hearing.

In order to allow the Commission adequate time to consider public comments on the proposed amendments, all written comments are encouraged to be submitted to the Commission by January 18, 2017, at 1313 Sherman Street, Room, Room 821, Denver, CO 80203, or by email (email contact keith.vanderhorst@state.co.us). The Commission may accept and consider late written comments and day-of-hearing written comments at its discretion, but any person who fails to deliver written comments by the deadline will not be entitled to make a Scheduled Oral Presentation, as described below.

The Commission will consider all written comments, regardless of whether the commenter makes an oral presentation. Written comments may include any written data, views or

arguments concerning the proposed amendments to the Commission's Rules, legal arguments or briefs, and materials prepared by persons other than the submitter. If alternative amendments are proposed, the Commission encourages those amendments to be included in the written materials, along with a proposed statement of basis and purpose of the alternative amendments.

The Administrative Record, including the petition, prehearing statements, written comments, and all other written materials to be considered by the Commission in this rulemaking, will be available for inspection on the Commission's website at <http://water.state.co.us/cgwc/>, and at the Commission's office at 1313 Sherman Street, Room, Room 821, Denver, CO 80203, during normal business hours (8:00 a.m. -5:00 p.m.), after January 18, 2017.

### Oral Presentations

The opportunity for two types of oral presentations will be available to the public. The first, referred to as Scheduled Oral Presentation, will be scheduled at the prehearing conference. Scheduled Oral Presentations are only available for persons who applied for and received party status, and who deliver their written comments to the Commission on or before January 18, 2017.

The second, referred to as General Public Comment, will be allowed as determined by the Commission during the hearing.

### V. PREHEARING CONFERENCE

Prior to the public hearing conducted by the Commission, the Commission's Attorney will hold a prehearing conference at 9:00 am on January 18, 2017, at office of the State Engineer at 1313 Sherman Street, Room, Room 821, Denver, CO 80203.

Pursuant to Rule 4.F.2 of the Procedural Rules each applicant for party status must submit at the prehearing conference a prehearing statement. The prehearing statement may constitute the party's written comments referenced above.

Oral presentations will be scheduled at the prehearing conference.

### VI. RULEMAKING HEARING

DATE: Friday, February 17, 2017

TIME: 10:00 a.m. (or as soon thereafter as provided for on the agenda of the general meeting of the Colorado Ground Water Commission)

PLACE: 1313 Sherman Street, Room 318, Denver, CO 80203

### VII. PROCEDURE AND PROPOSED AGENDA FOR RULEMAKING HEARING

The Commission will not apply the formal rules of evidence or civil procedure. Commission members may ask questions of any person appearing before them.

The Chair of the Commission may stop any Scheduled Oral Presentation or General Public Comment if the person speaking has exceeded his/her allotted time. Once the written comment is submitted for the consideration of the Commission, the material becomes part of the Administrative Record and the property of the Commission and will not be returned to the person offering the material.

#### Agenda

10:00 Rulemaking procedures explained  
10:05 Scheduled oral presentations  
10:35 Staff presentation  
10:45 General public comment  
11:00 Close public record, and Board deliberations

Subject to section 24-4-103, C.R.S., the Board may modify the proposed revised Rules prior to promulgating final revised Rules.

#### VIII. EFFECTIVE DATE

The amendments to the rules shall become effective 20 days after publication of the final rules in the Colorado Register.

DATED this 14th day of December, 2016.



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Dick Wolfe, P.E.  
Executive Director  
Colorado Ground Water Commission  
1313 Sherman Street, Rm. 818  
Denver, CO 80203