

Before the Ground Water Commission, Colorado 1313 Sherman St., Rm 821, Denver, CO 80203		
IN THE MATTER OF A PROPOSAL TO THE COLORADO GROUND WATER COMMISSION FOR RULEMAKING TO AMEND THE RULES AND REGULATIONS FOR THE MANAGEMENT AND CONTROL OF DESIGNATED GROUND WATER	COMMISSION USE ONLY	
	Case No. 19-GW-04	
<b>NOTICE OF PUBLIC RULEMAKING HEARING</b>		

**I. NATURE OF PUBLIC RULEMAKING PROCEEDING**

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 (“Designated Basin Rules”, or “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 provisions of the Colorado Groundwater Management Act in Article 90 of Title 37, including 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 410-2 (“Procedural Rules”).

**II. DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED**

The purpose of amending the Rules is to ensure that they are effective, efficient, and essential. This rulemaking will address issues relevant to or raised by the subject matter of the Rules and the proposed amendments thereto.

In response to the Governor’s Executive Order D 2012-002 (Regulatory Efficiency Reviews) Staff of the Commission (“Staff”) initiated the informal process to possibly amend the Designated Basin Rules. Staff drafted proposed changes to the rules, solicited written comments from interested parties, and held public (a.k.a. stakeholder) meetings (on November 13, 2017, December 12, 2017, and September 9, 2018) to allow interested parties to provide input on the proposed changes. At its November 2, 2018, meeting the Commission authorized Staff and its Hearing Officer to proceed with the formal rulemaking process. The formal rulemaking process

is initiated by filing a notice of rulemaking hearing with the Secretary of State and publication in the Colorado Register.

This Notice of Rulemaking Hearing will be published in the Colorado Register on February 10, 2019.

Staff's proposed amendments to the rules and proposed Statement of Basis, Specific Statutory Authority, and Purpose for the proposed amendments (both dated January 29, 2019<sup>1</sup>) and other documents related to the case are available at:

<https://dnrftp.state.co.us/#/DWR/Hearings/Designated%20Basin%20Rules%20Amendments%2019GW04/>

The proposed amendments to the rules and proposed Statement of Basis, Specific Statutory Authority, and Purpose are also 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 but any rules, as finally adopted, shall be consistent with the subject matter as set forth in this notice as required by section 24-4-103(4)(c), C.R.S.

### 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. PARTY STATUS

Applications for party status will be accepted through March 15, 2019, 2019. Applications for party status should be submitted to the Commission's Hearing Officer, Jody Grantham, by email to [jody.grantham@state.co.us](mailto:jody.grantham@state.co.us). The applications will be reviewed in accordance with Rule 6.F of the Procedural Rules. Applications for party status shall set forth the name, U.S. mail address, telephone number and e-mail address of the person, persons or agency seeking party status. The application shall also indicate the interest of the person(s) or agency 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. Party status will be determined by the Hearing Officer. Staff of the Commission is automatically a party to the rulemaking proceeding before the Commission pursuant to Rule 6.F.5 of the Procedural Rules.

### V. STATUS CONFERENCE

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<sup>1</sup> Staff's current proposed amendments to Rules, dated January 29, 2019, include changes to Rules 5.3.1.1 and 5.3.6.1.F that were not in the proposed amendments (dated October 26, 2018) presented to the Commission in its November 2, 2018 meeting. These changes are based on the best new geology and modeling information completed after November 2, 2018, are consistent with other proposed amendments and the overall purpose of amending the Rules, and are included at this time to provide timely and transparent notice.

After March 15, 2019, when party status requests have been received, the Hearing Officer will notify all parties of a date and time for a telephonic status conference to establish the requirements and timelines for the pre-hearing conference and the rulemaking hearing (conference call phone number 303-866-3581 ext. 7610).

#### VI. PRE-HEARING CONFERENCE

Prior to the rulemaking hearing the Hearing Officer will hold a prehearing conference. Participation in the pre-hearing conference may be available by telephone at the Hearing Officer's discretion (conference call phone number 303-866-3581 ext. 7610).

Pursuant to Rule 6.G.3 of the Procedural Rules each applicant for party status must submit at the prehearing conference a prehearing statement.

#### VII. RULEMAKING HEARING

##### Date, Time and Location

DATE: July 29 through August 2, 2019

TIME: 9:00 a.m. (or as otherwise directed by the Hearing Officer)

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

##### Procedures

The Commission's Hearing Officer will conduct the rulemaking hearing. The Hearing Officer may ask questions of any person appearing before him.

Pursuant to Procedural Rule 6.G.3.d the Hearing Officer will consider any alternative proposals related to the proposed amendments.

The Hearing Officer may modify the proposed amendments to the Rules from those published in the Colorado Register.

After the conclusion of the rulemaking hearing, the Hearing Officer will transmit his initial decision to the Commission.

#### VIII. ADOPTION OF THE RULE

##### Procedures

After receiving the Hearing Officer's initial decision, the Commission will consider the initial decision at one of its public meetings, at the date, time and place as noticed in the normal manner for its regular quarterly public meetings.

The Commission may, at its discretion, allow Staff, parties and interested persons to present oral or written summations of the facts and laws and opinions. The Commission may ask questions of any person appearing before them.

The Commission may accept or reject, in full or in part, the initial decision of the Hearing Officer, and may modify the proposed amendments to the Rules in adopting amendments to the rules.

Effective date

The amendments to the rules shall become effective 20 days after publication of the final amended rules, as adopted by the Commission, in the Colorado Register.

IX. ADMINISTRATIVE RECORD

The Administrative Record, including the proposal, applications for party status, prehearing statements, and all other written materials to be considered by the Commission in this rulemaking, will be available for inspection on the Division of Water Resource's ftp site at:

<https://dnrftp.state.co.us/#/DWR/Hearings/Designated%20Basin%20Rules%20Amendments%2019GW04/>

and 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.).

DATED this 29th day of January, 2019.



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