



**TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM**

To: Mayor Tokunaga and Board of Trustees From: Patrick Murphy, Treasurer, Director of Finance & Accounting Via: Kent Brown, Town Administrator	Meeting Date: Wednesday, January 28, 2015
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Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Resolution to Authorize Town Administrator to Apply for and secure additional Water Rights for Augmentation from the Town's RO Wells			
Attachments: Resolution #15-4 Application Form for District Court, Water Division no. 1, Colorado			

PURPOSE

To secure additional water rights to be used for replacement of depletions from wells owned by Milliken and return flow obligations pursuant to the Augmentation Plan decreed in Case No. 02CW339.

BACKGROUND

The Town of Milliken provides its residents with drinking water through facilities operated by the City of Greeley, the Central Weld County Water District and the Town's own Reverse Osmosis (RO) Treatment Facility. The RO facility treats water pumped from Town wells and discharges the reject water, or brine, from the treatment process into the Little Thompson River under a permit from the Colorado Department of Public Health and Environment (CDPHE), and as part of its Augmentation Plan granted under a decree from the Colorado Water Court, Case No. 02.CW339. During times when the RO facility is non-operational, as is currently the case, there may arise a need to pump water from the RO wells, bypass the treatment facility, and divert the raw water directly to the river to remain compliant with the Town's Augmentation Plan.

The current decree governing the use of the RO wells does not specifically authorize the Town to directly discharge this untreated water to the river for augmentation. Although it may be logically implied that the Town has this right, our Water Engineer, Forrest Leaf, has recommended that the Town apply to the Court to have this specific authorization added to our decree so that the Town can fully utilize these wells for whatever municipal purpose the Town determines is necessary.

The addition of these rights requires that an application to be submitted to the Water Court for adjudication, which would be done by the Towns' Water Attorneys, currently, Lawrence Jones Custer Grasmick LLP. Resolution 15-4 authorizes the Town Administrator to engage Lawrence Jones, et. al. to prepare, file and prosecute the Town's application for this purpose.

BUDGET IMPLICATIONS

The Town has appropriated \$12,500 for water-related legal fees and the estimated cost of this process is well within these limits.

RECOMMENDATION

Town Staff recommends the adoption of this motion to secure these additional water rights for the Town and ensure it can meet the requirements of its Augmentation Plan now and in the future.

POSSIBLE MOTION

"I move to adopt Resolution 15-4 authorizing the Town Administrator to engage the Town's water attorneys to prepare, file, and prosecute an application to secure additional water rights for the RO wells that will allow for the direct transfer of untreated well water to the river to help meet the Town's Augmentation Plan."

Resolution No. 15-04

TOWN OF MILLIKEN

A RESOLUTION AUTHORIZING AN APPLICATION FOR ADDITIONAL WATER RIGHTS FOR AUGMENTATION FROM THE TOWN'S RO WELLS

WHEREAS, the Town owns certain specified rights in Milliken Well No. 3 and the Knaub Well No. 0456, as decreed in Case No. 02CW339 in the Colorado District Court, Water Division No. 1, and are referred to as the Milliken "RO Wells," which supply the Town's Reverse Osmosis (RO) treatment facility for drinking water and;

WHEREAS, the reject water discharge, commonly referred to as "brine," from the RO facility is utilized as part of the Town's Augmentation Plan decreed in Case No. 02CW339 and;

WHEREAS, during periods where the RO treatment facility is non-operational, there may remain a need to draw on the RO wells to transfer untreated water directly to the river in order to comply with the Town's Augmentation Plan and;

WHEREAS, the current decreed Augmentation Plan does not specifically authorize this direct transfer to the river,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, COLORADO:

Section 1. The Town shall apply to the District Court of Colorado, Water Division No. 1 to specifically add the RO wells to its Augmentation Plan and;

Section 2. The Town Administrator is hereby authorized to engage the Town's water counsel to prepare, file, and adjudicate this application to secure these water rights through the appropriate Water Court.

Dated this 28th day of January, 2015

Milt Tokunaga, Mayor

ATTEST:

Cheryl Powell, Town Clerk

<p>DISTRICT COURT, WATER DIVISION NO. 1, COLORADO</p> <p>9th Street & 9th Avenue P.O. Box 2038 Greeley, CO 80632</p>	<p style="text-align: center;">COURT USE ONLY</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE</p> <p>TOWN OF MILLIKEN,</p> <p>IN WELD COUNTY.</p>	
<p>Kim R. Lawrence, #8366 Kelly J. Custer, #27247 Lawrence Jones Custer Grasmick LLP 5245 Ronald Reagan Blvd, Suite 1 Johnstown, CO 80534 (970) 622-8181 kim@ljcglaw.com kelly@ljcglaw.com</p>	<p>Case No. 15CW_____</p>

APPLICATION FOR WATER RIGHTS and TO ADD WELLS and AUGMENTATION SOURCES TO AUGMENTATION PLAN

1. Name, Address and Telephone Number of Applicant. Town of Milliken, Town Administrator, 1101 Broad Street, P. O. Box 290, Milliken, Colorado 80543.

Application for Water Rights

2. Name of Structure. Milliken Well No. 3-Augmentation.
- 2.1. Location. In the NW¼ of the NW¼, Section 14, Township 4 North, Range 67 West of the 6th P.M., Weld County Colorado approximately 317 feet south and 997 feet east from the northeast corner of said section.
 - 2.2. Appropriation date. January __, 2015. Appropriation initiated by authorization of the Water Commission of the Town of Milliken.
 - 2.3. Amount claimed. 1000 g.p.m., conditional.
 - 2.4. Source. Groundwater tributary to the Big Thompson River.

2.5. Use. Augmentation of depletions from wells owned by Milliken and return flow obligations pursuant to the augmentation plan decreed in Case No. 02CW339.

3. Name of Structure. Knaub Well No. 0456-Augmentation.

3.1. Location. In the NW¹/₄ NW¹/₄ of Section 14 Township 4 North Range 67 West of the 6th P.M., Weld County Colorado at a point 450 feet south and 1000 feet east of the Northwest corner of said Section 14.

3.2. Appropriation date. January __, 2015. Appropriation initiated by authorization of the Water Commission of the Town of Milliken.

3.3. Amount claimed. 1.7 c.f.s., conditional.

3.4. Source. Groundwater tributary to the Big Thompson River.

3.5. Use. Augmentation of depletions from wells owned by Milliken and return flow obligations pursuant to the augmentation plan decreed in Case No. 02CW339.

Application to Add Wells to Augmentation Plan

4. Augmentation Plan. Applicant operates an augmentation plan decreed in Case No. 02CW339. ¶20 of the decree in Case No. 02CW339 (Decree) allows the addition of wells to the plan subject to notice and terms and conditions.
5. Structures to be Added and Augmented. Milliken Well No. 3-Augmentation and Knaub Well No. 0456-Augmentation described in ¶2 and ¶3.
6. Proposed Terms and Conditions. The terms and conditions for the Wells will be the same as for the other Member Wells in the Decree. The consumptive use factor for each well will be 100% based on augmentation use. The method for determining future Well depletions will be those set out in the Decree at ¶20. The Glover parameters for the Wells will be the same as Milliken Well No. 3 and Knaub Well No. 0457 as set out in the Decree at Table 7. The Wells will be subject to all the terms and conditions for operation as for other Member Wells in the Decree.

Application to Add Augmentation Sources

7. The Decree at ¶23.2 allows the addition of augmentation sources to the plan for augmentation upon proper notice. Applicant seeks to add Milliken Well No. 3-Augmentation and Knaub Well No. 0456-Augmentation described in ¶2 and ¶3 as sources of augmentation under the Decree. The Wells will be subject to all the terms and conditions of the augmentation plan under the Decree.
8. Names and Addresses of Owners of the Structures: All structures are owned by Milliken.

DATED this ___ day of January, 2015.

LAWRENCE JONES CUSTER GRASMICK LLP

Kim R. Lawrence, #8366
Kelly J. Custer, #27247
Attorneys for Applicant

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

Forrest Leaf, P.E., being first duly sworn upon oath, deposes and states that he is the Water Engineering Consultant for the Town of Milliken, that he has read the foregoing and that the contents contained therein are true and correct to the best of his information, knowledge and belief.

Forrest Leaf

SUBSCRIBED AND SWORN TO before me this ___ day of January, 2015, by Forrest Leaf.

Notary Public

My commission expires: _____

E-FILED PURSUANT TO RULE 121. DULY SIGNED COPY ON FILE AT THE LAW OFFICES OF LAWRENCE JONES CUSTER GRASMICK LLP