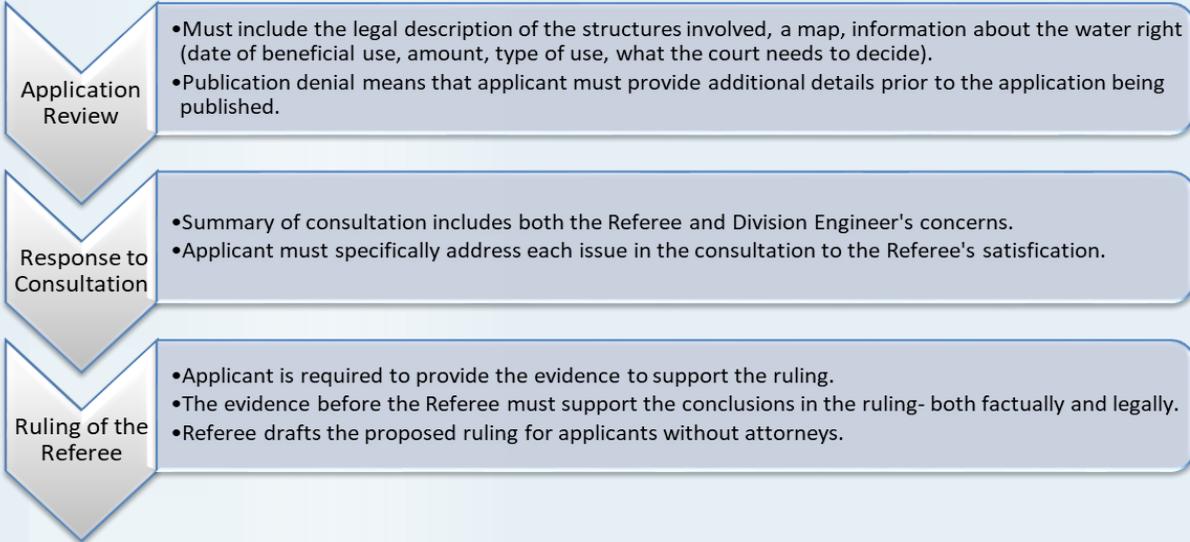
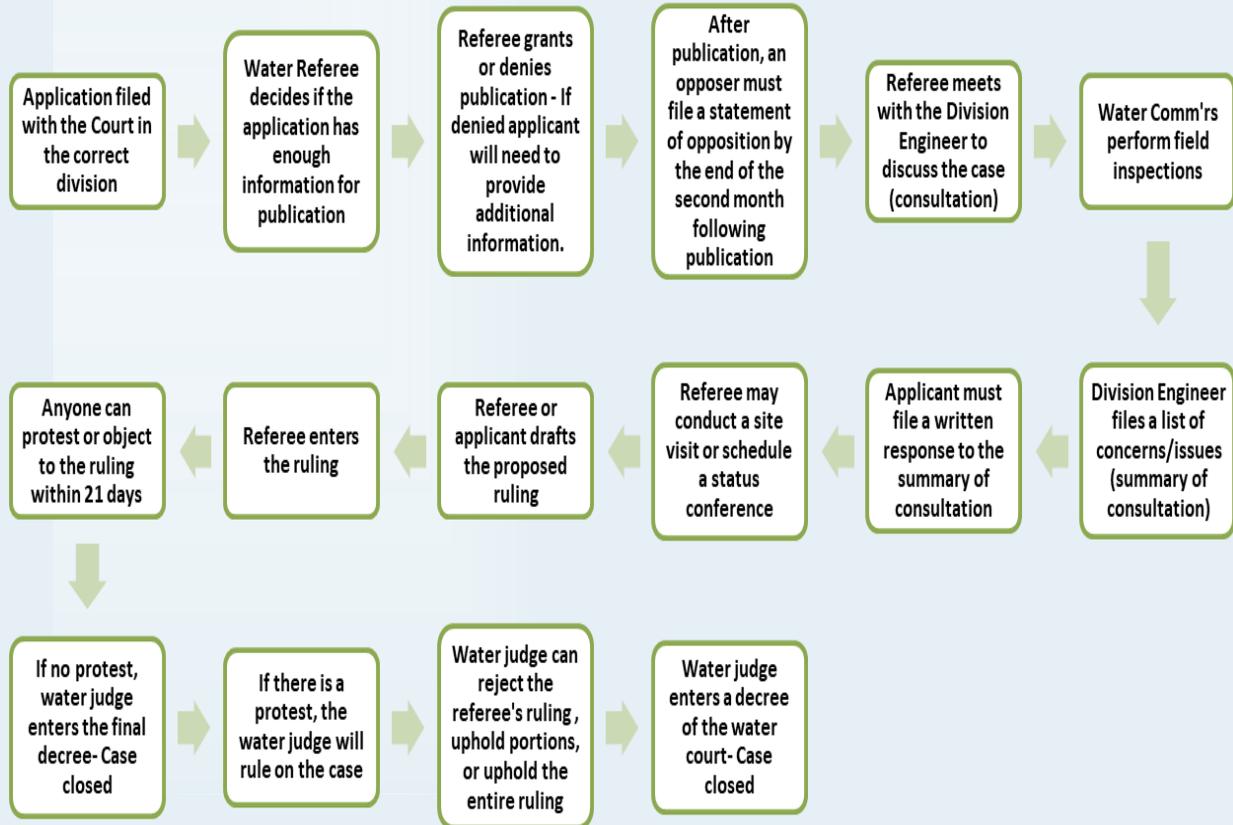


KEY STEPS IN THE PROCESS



AN OVERVIEW OF THE PROCESS



HELPFUL TOOLS

Colorado Decision Support System (CDSS): access to maps, well permits, water court decrees, and diversion records. Available at: <http://cdss.state.co.us/onlineTools/Pages/WaterRights.aspx>

Non-Attorney's Guide to Colorado Water Law. Available at: <https://www.courts.state.co.us/Courts/Water/Index.cfm>

Self-Help on the Colorado Judicial Branch Website. Available at: https://www.courts.state.co.us/Self_Help/watercases/

Water Court Division Websites. Available through links at: <https://www.courts.state.co.us/Courts/Water/Index.cfm>

State of Colorado Water Court



Water Division 5 Colorado River Basin

109 8th St Suite 104
Glenwood Springs CO 81601
Phone: 970-928-3065

Provided for informational purposes only and does not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and proce-

WHO'S WHO IN WATER COURT?

Water Commissioners are local field employees assigned to specific water districts and oversee local water diversions. They interact directly with water users and report their data and findings to the Division Engineer and Water Referee.

State & Division Engineers are the chief Division of Water Resource (DWR) officials and perform a technical analysis of water cases. They work with the Water Referee to create a "Summary of Consultation" for each water case. This summary addresses any issues, problems and/or concerns involving the pending water right application. It is the responsibility of the State and Division Engineers to perform the actual administration (ie: who gets water, where and when) of water court rights and decrees.

Water Clerks process all water court filings and oversee the progress and process of the water court case. They are responsible for facilitating public notice publications, issuing water court notifications, and calendaring conferences, hearing and trials for the Referee and Judge. They are the contact person for self-represented water users who need procedural information regarding the general water court process. They work under the direction of the Referee and Judge.

Water Referees are appointed by the Water Judge and the Executive Director of the Department of Natural Resources. The Referee has the authority to investigate each application, make and issue rulings for the consideration of the Water Judge. The Referee provides an informal forum for parties in a case to reach a successful outcome. They will factually and legally investigate the case in an informal manner, which includes discussions with the Division Engineer, Water Commissioners, and parties in the case. They also conduct site visits and hold status conferences. The referee assists pro se parties in understanding how to provide the necessary information to the Court. Most water court cases reach resolution while they are before the Referee.

Water Judges are District Court Judges that are specially appointed by the Chief Justice of the Colorado Supreme Court. They have the authority to confirm water rights and determine all other water matters within their water division. A water Judge must sign a Referee's ruling in order to make it a final decree. If a water court case is "re-referred" to the water Judge or there is a protest to a Referee's ruling, the case is set for trial before the after Judge.

Applicant is the party requesting a water right and has the burden to prove all the elements of the water case.

Opposer is the party opposing what the applicant is requesting.

The Referee Process

- 1. Application Review for Publication.** For every new water court case, the Referee reviews the application to determine if it contains sufficient information to proceed to newspaper publication. If not, the Referee will request additional information from the applicant within a certain amount of time. The Applicant is responsible for paying for newspaper publication and providing proof to the Court that the application was published.
- 2. Consultation.** Held within 30 days of the last day to file a statement of opposition. In-person meeting between the Referee and the Division Engineer (in Division 5). Held in every case unless the Division Engineer is an opposer.
- 3. Status Conferences.** If there are opposers, a status conference is held with all parties and the Referee within 60 days from the last day to file a statement of opposition.
 - a. The parties provide a summary of the claims and issues in the case.
 - b. Referee sets a case management plan that includes deadlines for circulating a ruling, a response to summary of consultation, and comments on those documents.
 - c. Referee schedules follow-up status conferences.
- 4. Ruling of the Referee.** Must include specific details about how the water right will operate and be put to beneficial use. Below are common types of claims and required proof:
 - a. **Claim to Make Absolute:** requires proof of lawful diversion and application to beneficial use on a specific date.
 - b. **Diligence Claim:** requires proof that the applicant has made effort toward completing the appropriation over the past 6 years and that the water right can and will be completed within a reasonable time.
 - c. **New Water Right:** requires details about the right (diversion structure, use, amount, appropriation date, need for the water, etc.); also consider whether a plan for augmentation or an exchange is necessary for the new right.
 - d. **Change of Water Right:** requires an analysis and details regarding the change (ie: a change in place and/or type of use, impact of the change on the river and other water rights, reason for the change, etc.).
 - e. **Plan for Augmentation:** requires details about how out-of-priority depletions will be replaced in time, location, and amount (ie: source of replacement water, location of that water, amount of water, timing/location of depletions, etc.).
- 5. Timeframe.** Ideally, the case is resolved in 18 months (maximum) on the Referee's docket. This period may be extended if the parties and Referee agree. If no opposers in the case, the Referee ideally enters a ruling within 63 days from the last day to file a statement opposition.