

**SUMMARY OF WATER COURT AND COLORADO GROUND WATER COMMISSION CASES  
MARCH 2013**

<b>Water Court Case No.</b>	<b>Background</b>	<b>Status</b>
Case No. 98CW80	<p>In May 1998, Cherokee Metropolitan District filed a Diligence Application for its conditional Sweetwater Wells (Sweetwater Nos. 1, 2, 3, 5, 8, 9, 11, 13, 15, 16). In a diligence proceeding, the holder of a conditional water right must show reasonable diligence toward applying the water to beneficial use, or have the decree made absolute. UBS District filed a Statement of Opposition and Petition for Declaratory Judgment. The matter was settled in 1999 when the parties entered into a Stipulation. The Water Court incorporated the Stipulation into its Decree in March 1999.</p> <p>In April 2005, Cherokee filed a Motion to Enforce the Previous Stipulation of the Parties asking the Water Court to interpret the 1999 Stipulation and Decree regarding Cherokee’s use of Cherokee Wells 1-8. The Water Court determined the meaning of “emergency and backup” as used in the 1999 Stipulation, and the Colorado Supreme Court affirmed the Water Court’s Order in <i>Cherokee Metropolitan Dist. v. Simpson</i>, 148 P.3d 142 (Colo. 2006).</p> <p>In November 2009, UBS District filed a Motion for Declaratory Judgment Regarding Previous Stipulation of the Parties asking the Court whether under the 1999 Stipulation water delivered back into the basin by Cherokee is for recharge of the aquifer, and whether diversions from Cherokee’s Wells 9-12 are limited by the 1999 Stipulation. The Water Court initially ruled in favor of UBS District, but because the Colorado Supreme Court allowed Meridian Service Metropolitan District to intervene in the case in <i>Cherokee Metro. Dist. v. Meridian Serv. Metro. Dist.</i>, 266 P.3d 401, (Colo. 2011), the case was remanded back to Water Court to give Meridian the opportunity to be heard.</p>	Case is being re-briefed before the Water Court with Meridian as a party. UBS District filed an Amended Motion for Declaratory Judgment in February 2013. The motion is being briefed pursuant to the Water Court’s deadlines in its Case Management Order. A hearing will be held on the matter if required by the Water Court.
Case No. 05CW06	In February 2005, Cherokee filed an Application to Make Absolute Conditional Water Rights for its Wells 14-17 (also known as Sweetwater No. 9, 8, 3, 11) (as later amended). UBS District filed a Motion to	Case is pending until the Colorado Supreme Court

	<p>Dismiss the application because it was not timely filed pursuant to the 1999 Stipulation. The Water Court agreed with UBS District and held that Cherokee's conditional water rights were abandoned. Cherokee appealed and the Colorado Supreme Court affirmed, but left open the question of whether the water rights were abandoned in their entirety. <i>Cherokee Metro. Dist. v. Upper Black Squirrel Creek Designated Ground Water Mgmt. Dist.</i>, 247 P.3d 567 (Colo. 2011).</p> <p>In July 2012, the Water Court again agreed with UBS District and held that the Wells 14-17 water rights were abandoned in their entirety. Cherokee appealed, the Colorado Supreme Court reviewed the Water Court order, and held that the July 2012 Order was ambiguous. The Supreme Court retained jurisdiction in the case and remanded the case to the Water Court to conduct further proceedings regarding the 1999 Stipulation and the issue of abandonment of the conditional water rights for Cherokee Wells 14-17.</p> <p>In August 2012, Cherokee filed a Motion for Summary Judgment and Brief in Support arguing that the remaining portion of the Wells 14-17 conditional water rights are not abandoned. UBS District filed a Response and Cross Motion in October 2012. Briefing was completed in December 2012. However, Cherokee's prior counsel, Felt, Monson and Culichia, sought to intervene in the case. The Water Court denied their request, and Felt, Monson and Culichia appealed to the Colorado Supreme Court.</p> <p>This Case No. 05CW6 has been consolidated with Case No. 05CW20.</p>	<p>decides whether Felt, Monson and Culichia can intervene in the case.</p>
Case No. 05CW20	<p>In March 2005, Cherokee filed an application for Finding of Reasonable Diligence for its conditional Sweetwater Well water rights. This case is pending while the Courts determine whether Cherokee Wells 14-17 have been abandoned in their entirety.</p>	<p>Case is pending until the Water Court decides Case No. 05CW6.</p>
Case No. 11CW11	<p>In February 2011, Cherokee again filed an Application for Finding of Reasonable Diligence for its conditional Sweetwater Well water rights. Diligence is required every six years and this case was filed because six years had passed since Case No. 05CW20 was filed.</p>	<p>Case is pending until the Courts decide Case No. 05CW6/05CW20</p>

Case No. 08CW82	In October 2008, Cherokee filed an Application for Change of Use of its conditional Sweetwater Well water rights. The Application requests a change of Cherokee's Sweetwater wells to add new and supplemental uses of replacement, augmentation and aquifer recharge.	Case is pending until the Courts decide Case No. 98CW80.
Case No. 10CW95	Meridian filed an Application in Water Court for new surface and storage rights within the Upper Black Squirrel Basin. The application seeks four new diversion points and a new storage right. Proceedings were stayed by the Court and referred to the Colorado Ground Water Commission.	Application is stayed until proceedings before the Colorado Ground Water Commission in Case No. 12GW10 is complete.
<b>Colorado Ground Water Commission Case No.</b>	<b>Background</b>	<b>Status</b>
Case No. 12GW10	<p>Pursuant to the Water Court's Order in Case No. 10CW95, Meridian sought a determination from the Colorado Ground Water Commission as to the status of the water it sought to appropriate within the Upper Black Squirrel Basin.</p> <p>A hearing was held in January 2013 and closing briefs were submitted by Meridian and the Opposers, UBS District and the Farmer family.</p>	<p>Hearing completed before the Colorado Ground Water Commission.</p> <p>Hearing Officer will issue an Order.</p>
Case No. 08GW71	In 2008, Cherokee and Meridian submitted an application to the Colorado Ground Water Commission for Approval of a Replacement Plan Within a Designated Groundwater Basin. UBS District, and several other Opposers, filed objections to the application. The application seeks new appropriations of designated ground water from the alluvial aquifer through 4 existing wells and up to 6 new wells. Cherokee and Meridian propose to offset the new well appropriations with wastewater delivered to the designated basin by Cherokee from its wastewater treatment plant.	Cherokee requested, and the Hearing Officer approved, a stay pending resolution of Case No. 98CW80.
Case No. 08GW78	In November 2008 Cherokee submitted an application to the Colorado Ground Water Commission to change the type and place of use of Cherokee Well No. 13. UBS District objected to the change based on Cherokee's claimed historic	Cherokee requested, and the Hearing Officer approved, a stay pending

	consumptive use, and then worked with Cherokee on establishing a revised historic consumptive use.	resolution of Case No. 98CW80.
Case No. 09GW11	In February 2009, Meridian submitted eight applications to the Colorado Ground Water Commission to change the type and place of use in the determinations of water. The applications were submitted for the following determination numbers: 154-BD, 155-BD, 156-BD, 157-BD & 570-BD, 568-BD, 569-BD, 570-BD. Meridian requested to add replacement as the new type of use, and to add new places of use.	Meridian requested, and the Hearing Officer approved, a stay pending resolution of Case No. 98CW80.
Case No. 09GW15	In 2009, Cherokee filed an application to change the type and place of use for Cherokee Wells 9-12. Cherokee requested to add replacement, augmentation and aquifer recharge as the new types of uses, and to add new places of use. The application was consolidated with Cherokee Case Nos. 08GW71 and 08GW78.	Cherokee requested, and the Hearing Officer approved, a stay pending resolution of Case No. 98CW80.
Case No. 03GW20	In 2003, Woodmen Hills Metropolitan District submitted an application to the Colorado Ground Water Commission Requesting Approval of a Replacement Plan Within a Designated Basin. The application was set for a hearing before the Commission's hearing officer but then vacated in 2005 in order for the Applicants to revise their replacement plan application. Applicants have submitted several revisions to the Commission staff but to date a replacement plan has not been approved.	Hearing vacated, but replacement plan application still pending.