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WATER LAW - COLORADO

Application for Water Rights of Town of Firestone v. BCL Colorado LP

Supreme Court of Colorado - May 27, 2025 - P.3d - 2025 WL 1499979 - 2025 CO 33

Town filed a water rights application and augmentation plan in connection with planned water system expansion, and wastewater service provider opposed the application.

Following a bench trial, the Water Court entered an order partially granting and partially denying provider's motion for involuntary dismissal, and dismissed without prejudice three of five claims for groundwater well fields from town's application and revised its augmentation plan accordingly. Town appealed.

The Supreme Court held that:

- Town was not entitled to use water court's retained jurisdiction to improperly delay its burden of demonstrating non-injury to senior water rights holders until after its conditional groundwater rights had been approved;
- Water court was within its discretion to allow provider to contest the issue of non-injury despite pretrial stipulation that the proposed depletion patterns were adequate to prevent injury; and
- Sufficient evidence supported water court's finding that town failed to meet its burden of demonstrating non-injury as to some of the proposed well sites.

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