

ADVANCE SHEET HEADNOTE
October 15, 2001

No. 00SA229: Farmers Reservoir and Irrigation Company; Farmers High Line Canal and Reservoir Company; and City of Westminster v. Consolidated Mutual Water Company; Agricultural Ditch and Reservoir Company; and City of Golden - Water Court - Section 37-92-304(6) - Changes of Water Rights - Augmentation Plans - Finality and Appealability - Consumptive Use Determinations - Retained Jurisdiction - Legislative History - Future Injury - Abuse of Discretion - Ditch-Wide Analysis - Volumetric Limits - Application of Methodology and Consumptive Use Allocations to Future Change Cases

The Water Court adjudicated a change of water rights to Consolidated Mutual Water Company for water historically utilized under the LSE Ditch. Opposers took no appeal from the judgment and decree. Opposers later filed a petition to invoke the retained jurisdiction provision of the judgment and decree, seeking a Water Court order cutting back Consolidated Mutual's consumptive use in order to offset Golden's alleged consumptive use overdraft. The alleged overdraft was due to Golden's 1960s change decrees not being volumetrically limited.

The Water Court refused to invoke or extend the period of retained jurisdiction. The Supreme Court, agreeing with the Water Court, holds that the Water Court's consumptive use allocations to Consolidated Mutual and Golden in the case were final and non-reviewable, because no appeal was taken. The Supreme Court also holds that the ditch-wide methodology and consumptive use determinations the Water Court made in this case are applicable to future change cases involving the five appropriations historically utilized under the LSE Ditch. Opposers may raise the issue of Golden's alleged overdraft in a pending change case Golden has initiated for an additional proposed transfer of LSE Ditch water.