

**Kings Row HOA Special Meeting Minutes**  
**March 1, 2023, 6:00pm**  
**Missouri Heights Schoolhouse**

1. The meeting opened at 6:03pm
2. Julie began the meeting by introducing Jeff Conklin (Kings Row HOA attorney) and reminded the group of ground rules for meeting conduct.
3. Jeff Conklin explained the Kings Row Potable Water Rights Augmentation Plan
  - While researching the water rights for KRHOA for a proposed change in a covenant we came across important information for the membership. The information indicated that although KRHOA water court decree allows for use of potable water for livestock (horses), the augmentation plan does not include livestock (horse) uses and depletions, which would allow for out-of-priority diversions (e.g. would not allow summer use of potable water for livestock where there is a call). The uses for the wells are for domestic uses, a limited amount of irrigation, livestock and some fire protection. When the water supply is backed up by an augmentation plan it allows KRHOA to divert water out of priority. Colorado water law operates under a priority system called prior appropriation system. What that means is water rights are based on priority first in time, first in right. When a senior water right places a “call for water” the junior water rights can be curtailed to ensure that the senior water rights are being met.
  - There are a lot of junior water rights that are needed to serve domestic uses. An augmentation plan is a mechanism to ensure that the senior water rights are being met even when the junior water rights might otherwise be out of priority. Typically, that takes the form of storage like Ruedi Reservoir. When a senior water right isn't being met, the junior water right holder who has an augmentation plan that says, “when the senior makes a call for water and is released from Ruedi to fulfill the call, the junior right holder uses the augmentation plan to still have the capability to call for water”.
  - The KRHOA augmentation plan is through the Basalt Conservancy District and water court. KRHOA Well #2 has existing water rights to supply water for livestock purposes but is not part of the existing augmentation plan. This means that in the event of a summer call of water for livestock technically potable water is being diverted out-of-priority.

The BOD saw three possibilities for a solution:

1. Remove all horses from the subdivision during the summer or,
2. Advise all horse owners to provide water from a delivery service or,
3. **Fix the legal issue of amending the augmentation plan** – purchase 1-2 acre-feet of water from BCD to use as augmentation supply for livestock uses and proceed with an application in water court.:
  - a. Cost involved: 15-25K estimate. Could be more, depending on opposers and position of the Division Engineer.
  - b. Time Involved until resolved: estimate of 1 year but could be longer depending on opposers and position of Division Engineer.
  - c. Why: this addresses the problem forever vs. putting off a permanent solution with a Band-Aid
  - d. Scrutiny over water use will only increase over time – we should secure this right for all the homeowners now and in the future

**Questions:** The attendees came with a great set of questions that were directed mostly at Jeff and then answered with his expertise.

1. Will this change who can have horses on their property?
  - i. NO, the Covenants will remain the same unless later amended by the Owners. There will be no possibility of change to the existing Covenants regarding livestock until the water rights augmentation plan clearly states availability of potable water for livestock in summer.
2. Can we disallow horses on all lots in the subdivision?
  - i. That would require a change in the Covenants – 50% of the lots allow for horses. That has not been proposed at this time.
3. Why do I have to pay for this when I don't have a horse property?
  - i. We are a community with a top priority focus on water supply, delivery and use. The correct augmentation plan is important.
4. There aren't many horses in the subdivisions, why do we have to do this now?
  - i. It's unclear why the augmentation did not specifically include livestock uses when first decreed. Now that the BOD is aware of the issue it wishes to address the problem.
5. Why are we pursuing this for all lots?
  - i. The cost difference is minimal and sets KRHOA up for future changes should the need arise.
6. What can happen if we do nothing?
  - i. This creates a situation where the existing livestock uses could be curtailed by the Division Engineer through an enforcement order to KRHOA - Unknown consequences.
7. Why is the water augmentation plan a problem now?

This was set up in the eighties. Water is legally diverted for livestock use most of the year. That's not a problem, it's just during summer. The amended augmentation plan will allow owners to have water for the horses. That's what would be changing legally.

**Close Meeting 7:20pm**

**Attendees:**

- Jeff Conklin – KRHOA Lawyer
- Andrew and Erin DiPaolo
- Carol Gault
- Tim and Mimi Trombatore
- Alan McNeilly
- Connie Wood
- Marc Breslin and Tamara Tormohlen
- Becky Chase
- Roshni Slali
- Jo Ashton – BOD
- Kathleen Cooper
- Hunter Webster
- Chris Bourne
- David Ahasic
- Nicholas Wenthur
- Julie Hazard – BOD
- Ed and Paula Phillips
- Elizabeth Weiwall