

The Southwestern Water Conservation District
West Building, 841 E. 2nd Ave.
Durango, CO 81301

NOTICE IS HEREBY GIVEN
A Special Board Meeting of the
Southwestern Water Conservation District
will be held on

Thursday, February 29, 2024
12:00 p.m.

Video: [Click here to join Zoom](#)
Phone Number: (346) 248 7799
Meeting ID: 813 5451 4316
Passcode: 316817

Posted and Noticed Wednesday, February 28, 2024

Tentative Agenda

Public participation is available via Zoom using the connection information above.

*Please email morock@swgcd.org if you have difficulty joining the meeting. Please raise your hand to be recognized by the chair. To raise your hand by phone, dial*9. To raise your hand by computer, please use Alt+Y (Windows) or Option+Y (Mac). To mute and unmute by phone, dial *6.*

Except the time indicated for when the meeting is scheduled to begin, the times noted for each agenda item are estimates and subject to change. The Board may address and act on agenda items in any order to accommodate the needs of the Board and the audience. Agenda items can also be added during the meeting at the direction of the Board.

- 1. Call to Order - Roll Call (12:00 p.m.)**
- 2. Review and Approve Agenda (12:02 p.m.)**
- 3. Questions & Comments from the Public (12:03 p.m.)**
- 4. State Legislative Update & SWCD Position on Bills (12:05 p.m.)**
- 5. Adjournment (12:45 p.m.)**

Upcoming Meetings

March 14, 2024	SWCD Legislative Call
March 27, 2024	SWCD Annual Seminar
April 10-11, 2024	SWCD Regular Board Meeting

SWCD
Bill Tracker
28-Feb-24

Bill #	Comments	Position	Calendar Notification	Short Title	Sponsors	Most Recent Status
HB24-1007			Tuesday, March 12 2024 SENATE LOCAL GOVERNMENT & HOUSING COMMITTEE 2:00 PM SCR 352 (1) in senate calendar.	Prohibit Residential Occupancy Limits	M. Rutinel (D) J. Mabrey (D) / T. Exum (D) J. Gonzales (D)	2/12/2024 Introduced In Senate - Assigned to Local Government & Housing
HB24-1024			NOT ON CALENDAR	Extend Outreach Campaigns Wildfire Risk Mitigation	T. Story (D) E. Velasco (D) / L. Cutter (D)	1/22/2024 House Committee on Agriculture, Water & Natural Resources Refer Unamended to Appropriations
HB24-1091			NOT ON CALENDAR	Fire-Hardened Building Materials in Real Property	K. Brown (D) B. Titone (D) / L. Cutter (D) S. Jaquez Lewis (D)	2/23/2024 Senate Third Reading Passed - No Amendments
HB24-1168			Tuesday, March 5 2024 State Library Transportation, Housing & Local Government 1:30 p.m. Room Old (2) in house calendar.	Equal Access to Public Meetings	M. Froelich (D) M. Rutinel (D) / N. Hinrichsen (D)	1/31/2024 Introduced In House - Assigned to Transportation, Housing & Local Government
HB24-1178			NOT ON CALENDAR	Local Government Authority to Regulate Pesticides	C. Kipp (D) M. Froelich (D) / L. Cutter (D) S. Jaquez Lewis (D)	2/15/2024 House Committee on Energy & Environment Refer Amended to Appropriations
SB24-005			Thursday, February 29 2024 GENERAL ORDERS - SECOND READING OF BILLS (5) in house calendar.	Prohibit Landscaping Practices for Water Conservation	D. Roberts (D) C. Simpson (R) / K. McCormick (D) B. McLachlan (D)	2/26/2024 House Committee on Agriculture, Water & Natural Resources Refer Amended to House Committee of the Whole
SB24-026			NOT ON CALENDAR	Agriculture & Natural Resources Public Engagement Requirement	D. Roberts (D) P. Will (R) / B. McLachlan (D) M. Catlin (R)	1/18/2024 Senate Committee on Agriculture & Natural Resources Refer Amended to Appropriations
SB24-031			Thursday, February 29 2024 GENERAL ORDERS - SECOND READING OF BILLS (6) in house calendar.	Local Authority Enforce Violation of Noxious Weed Act	D. Roberts (D) / M. Lukens (D) B. McLachlan (D)	2/26/2024 House Committee on Agriculture, Water & Natural Resources Refer Amended to House Committee of the Whole

SB24-037			Thursday, February 29 2024 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM SCR 352 (1) in senate calendar.	Study Green Infrastructure for Water Quality Management	C. Simpson (R) J. Bridges (D) / M. Lynch (R) K. McCormick (D)	1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
SB24-038			NOT ON CALENDAR	Authorize Conservancy District Water Management	J. Bridges (D) C. Simpson (R) / M. Martinez (D) K. McCormick (D)	1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
SB24-127			NOT ON CALENDAR	Regulate Dredged & Fill Material State Waters	B. Kirkmeyer (R) / S. Bird (D)	2/6/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
SB24-129			NOT ON CALENDAR	Nonprofit Member Data Privacy & Public Agencies	B. Pelton (R) C. Kolker (D) / C. deGruy Kennedy (D) L. Frizell (R)	2/6/2024 Introduced In Senate - Assigned to Business, Labor, & Technology
SB24-148			Wednesday, February 28 2024 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE Upon Adjournment SCR 352 (1) in senate calendar.	Precipitation Harvesting Storm Water Detention	K. Van Winkle (R)	2/28/2024 Senate Committee on Agriculture & Natural Resources Refer Amended - Consent Calendar to Senate Committee of the Whole
SB24-165			NOT ON CALENDAR	Air Quality Improvements	K. Priola (D) L. Cutter (D) / M. Rutinel (D) L. Garcia (D)	2/22/2024 Introduced In Senate - Assigned to Transportation & Energy
SJR24-004	Support		NOT ON CALENDAR	Water Projects Eligibility Lists	D. Roberts (D) C. Simpson (R) / K. McCormick (D) M. Catlin (R)	2/27/2024 Sent to the Governor

Southwestern Water Conservation District

[HB24-1007](#)

Prohibit Residential Occupancy Limits

Comment:

Position:

Calendar

Tuesday, March 12 2024

Notification:

SENATE LOCAL GOVERNMENT & HOUSING COMMITTEE

2:00 PM SCR 352

(1) in senate calendar.

Short Title:

Prohibit Residential Occupancy Limits

Sponsors:

M. Rutinel (D) | J. Mabrey (D) / T. Exum (D) | J. Gonzales (D)

Summary:

The bill prohibits local governments from enacting or enforcing residential occupancy limits ~~unless those limits are tied to a minimum square footage per person requirement that is necessary to regulate safety, health, and welfare~~ *based on familial relationship while allowing local governments to implement residential occupancy limits based on demonstrated health and safety standards such as international building code standards, fire code regulations, or Colorado department of public health and environment wastewater and water quality standards.*

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status:

2/12/2024 Introduced In Senate - Assigned to Local Government & Housing

Date Introduced:

2024-01-10

[HB24-1024](#)

Extend Outreach Campaigns Wildfire Risk Mitigation

Comment:

Position:

Calendar

NOT ON CALENDAR

Notification:

Short Title:

Extend Outreach Campaigns Wildfire Risk Mitigation

Sponsors:

T. Story (D) | E. Velasco (D) / L. Cutter (D)

Summary:

Wildfire Matters Review Committee. The bill requires the Colorado state forest service (forest service) to conduct enhanced wildfire awareness month outreach campaigns (campaigns) through 2027 and

other outreach efforts through the 2026-27 state fiscal year that are expected to increase awareness of wildfire risk mitigation by residents in the wildland-urban interface.

For state fiscal year 2024-25, the bill appropriates \$300,000 from the general fund to the healthy forests and vibrant communities fund for use by the forest service for the ongoing campaigns and outreach efforts.

(Note: This summary applies to this bill as introduced.)

Status: 1/22/2024 House Committee on Agriculture, Water & Natural Resources
Refer Unamended to Appropriations

Date Introduced: 2024-01-10

[HB24-1091](#) **Fire-Hardened Building Materials in Real Property**

Comment:

Position:

Calendar NOT ON CALENDAR

Notification:

Short Title: Fire-Hardened Building Materials in Real Property

Sponsors: K. Brown (D) | B. Titone (D) / L. Cutter (D) | S. Jaquez Lewis (D)

Summary: The bill generally prohibits covenants and other restrictions that disallow the installation, use, or maintenance of fire-hardened building materials in residential real property, including in common interest communities. However, the bill allows a unit owners' association of a common interest community to develop reasonable standards regarding the design, dimensions, placement, or external appearance of fire-hardened building materials used for fencing within the community.
(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status: 2/23/2024 Senate Third Reading Passed - No Amendments

Date Introduced: 2024-01-22

[HB24-1168](#) **Equal Access to Public Meetings**

Comment:

Position:

Calendar Tuesday, March 5 2024

Notification: State Library Transportation, Housing & Local Government
1:30 p.m. Room Old
(2) in house calendar.

Short Title: Equal Access to Public Meetings

Sponsors: M. Froelich (D) | M. Rutinel (D) / N. Hinrichsen (D)

Summary:

The bill requires state and local public bodies (public bodies) to ensure that the following accessibility requirements are implemented by July 1, 2025:

- Any public meeting at which public business is discussed, formal action may be taken, or recommendations to the governing body of the public body may be discussed (meeting) held by a public body is required to be accessible in real time by live streaming video or audio that is recorded and accessible to individuals with disabilities;
- A public body is required to post on its website, at least 24 hours before a meeting, any documents that will be distributed during the meeting;
- For any meeting of a public body during which public testimony will be heard, the public body is required to allow any individual to participate in the meeting and offer public testimony by using a video conferencing platform unless the meeting occurs in a geographic location that lacks broadband internet service; and
- A public body is required to provide any auxiliary aids or services requested in time for the meeting for which they were requested. A public body may require that a request for auxiliary aids or services to attend a meeting of the public body with the use of the video conferencing platform be made up to 7 days before the date of the meeting.

Nothing in the bill prohibits a public body from promulgating rules for the administration of public testimony so long as the rules apply to both in-person and remote testimony, and nothing in the bill requires a public body to provide hardware or software or internet or phone access at an individual's home.

The failure of any public body to comply with the applicable requirements of the bill constitutes discrimination on the basis of disability. Any individual who is subjected to a violation is entitled to seek relief as currently provided in law.

(Note: This summary applies to this bill as introduced.)

Status:

1/31/2024 Introduced In House - Assigned to Transportation, Housing & Local Government

Date Introduced:

2024-01-31

[HB24-1178](#)**Local Government Authority to Regulate Pesticides****Comment:****Position:**

Calendar Notification:	NOT ON CALENDAR
Short Title:	Local Government Authority to Regulate Pesticides
Sponsors:	C. Kipp (D) M. Froelich (D) / L. Cutter (D) S. Jaquez Lewis (D)
Summary:	Current law prohibits a local government from creating laws that regulate the use of pesticides by pesticide applicators regulated by state or federal law. The bill allows a local government to create and enforce laws regulating the sale or use of pesticides to protect the health and safety of the community with certain exceptions.
	<i>(Note: This summary applies to this bill as introduced.)</i>
Status:	2/15/2024 House Committee on Energy & Environment Refer Amended to Appropriations
Date Introduced:	2024-02-01

SB24-005 Prohibit Landscaping Practices for Water Conservation

Comment:	
Position:	
Calendar Notification:	Thursday, February 29 2024 GENERAL ORDERS - SECOND READING OF BILLS (5) in house calendar.
Short Title:	Prohibit Landscaping Practices for Water Conservation
Sponsors:	D. Roberts (D) C. Simpson (R) / K. McCormick (D) B. McLachlan (D)
Summary:	Water Resources and Agriculture Review Committee. On and after January 1, 2025 2026, the bill prohibits local governments and unit owners' associations of common interest communities from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species on commercial, institutional, or industrial property, or a transportation corridor <i>common interest community property, or a street right-of-way, parking lot, median, or transportation corridor</i> . The bill also prohibits the department of personnel from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species as part of a project for the construction or renovation of a state facility, which project commences on or after January 1, 2025.

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status: 2/26/2024 House Committee on Agriculture, Water & Natural Resources Refer Amended to House Committee of the Whole
Date Introduced: 2024-01-10

[SB24-026](#) **Agriculture & Natural Resources Public Engagement Requirement**

Comment:

Position:

Calendar Notification: NOT ON CALENDAR

Short Title: Agriculture & Natural Resources Public Engagement Requirement

Sponsors: D. Roberts (D) | P. Will (R) / B. McLachlan (D) | M. Catlin (R)

Summary: **Water Resources and Agriculture Review Committee.** Prior to the consolidation of the division of wildlife and the division of parks and recreation and their respective commissions in Senate Bill 11-208, enacted in 2011, members of the wildlife commission were required to hold at least 2 public meetings per year in their respective geographic districts.

The bill renews the public engagement requirement for the members of the parks and wildlife commission in the department of natural resources who are appointed by the governor and adds the same public engagement requirement for members of the state agricultural commission and the Colorado water conservation board who are appointed by the governor. The bill requires the public engagement meetings be held in person.

Commission and board members subject to the public engagement requirement are entitled to reimbursement for their reasonable costs in holding public meetings. Status updates on the commission and board members' compliance with the public engagement requirement must be reported to the chair of each member's respective commission or board and included in each member's respective executive department's annual "SMART Act" presentation to the general assembly.

(Note: This summary applies to this bill as introduced.)

Status: 1/18/2024 Senate Committee on Agriculture & Natural Resources Refer Amended to Appropriations

Date Introduced: 2024-01-10

[SB24-031](#) **Local Authority Enforce Violation of Noxious Weed Act**

Comment:

Position:

Calendar Thursday, February 29 2024

Notification: GENERAL ORDERS - SECOND READING OF BILLS
(6) in house calendar.

Short Title: Local Authority Enforce Violation of Noxious Weed Act

Sponsors: D. Roberts (D) / M. Lukens (D) | B. McLachlan (D)

Summary: **Water Resources and Agriculture Review Committee.** Current law allows the commissioner of agriculture to assess civil penalties for violations of state laws related to the prevention of noxious weeds (violations). The bill:

- Clarifies that a board of county commissioners (board) may allow for the assessment and collection of fines for violations of local laws enacted to enforce the management of noxious weeds in the county;
- Creates a civil infraction for violations;
- Creates a civil penalty for violations that is no less than \$500 and no more than \$1,000;
- Allows a county attorney to ~~issue~~ *petition the district court* for an injunction to prevent an ongoing violation; and
- Allows a board to appoint a district attorney to enforce violations in the event that the county does not have a county attorney or in any other circumstance that the board deems appropriate.

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status: 2/26/2024 House Committee on Agriculture, Water & Natural Resources
Refer Amended to House Committee of the Whole

Date Introduced: 2024-01-10

[SB24-037](#) **Study Green Infrastructure for Water Quality Management**

Comment:

Position:

Calendar Notification: Thursday, February 29 2024
 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE
 1:30 PM SCR 352
 (1) in senate calendar.

Short Title: Study Green Infrastructure for Water Quality Management

Sponsors: C. Simpson (R) | J. Bridges (D) / M. Lynch (R) | K. McCormick (D)

Summary: **Water Resources and Agriculture Review Committee.** The bill requires the division of administration (division) in the department of public health and environment (department), in collaboration with the university of Colorado's Mortenson center in global engineering and resilience and the Colorado water institute located within Colorado state university, to:

- Conduct a feasibility study of the use of green infrastructure, which refers to nature-based, watershed-scale water quality management solutions that are an alternative to traditional gray infrastructure, which refers to centralized water treatment facilities, and the use of green financing mechanisms for water quality management;
- Establish one or more pilot projects in the state to demonstrate the use of green infrastructure, green financing mechanisms, or both;
- Adopt rules establishing a prepermit baseline date to assist municipalities and other water providers to pursue prepermit solutions for compliance with state and federal water quality standards; and
- Submit a report and present to the water resources and agriculture review committee on the progress of the feasibility study and any pilot projects and on any legislative and administrative recommendations to promote the use of green infrastructure and green financing mechanisms for water quality management in the state.

(Note: This summary applies to this bill as introduced.)

Status: 1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

Date Introduced: 2024-01-10

[SB24-038](#) Authorize Conservancy District Water Management

Comment:

Position:

Calendar Notification: NOT ON CALENDAR

Short Title: Authorize Conservancy District Water Management
Sponsors: J. Bridges (D) | C. Simpson (R) / M. Martinez (D) | K. McCormick (D)
Summary: **Water Resources and Agriculture Review Committee.** Under current law, when certain conditions exist, a district court may establish conservancy districts for the conservation, development, utilization, and disposal of water for agricultural, municipal, and industrial uses. **Section 1** of the bill allows conservancy districts to conserve, develop, utilize, or dispose of water for commercial uses as well. **Section 2** authorizes the board of directors of a conservancy district to:

- Submit and participate in a plan for augmentation for the benefit of water rights and wells within and outside of the boundaries of the conservancy district;
- Contract with water users within and outside of the conservancy district for the provision of services;
- Exercise certain powers concerning the management, control, delivery, use, and distribution of water in conjunction with a plan for augmentation;
- In conjunction with **sections 4 and 5**, establish a water activity enterprise, which is a government-run business, for the purpose of pursuing or continuing water activities; and
- Sell, lease, or otherwise dispose of the use of water or capacity in works by term contracts or by contracts for the perpetual use of the water or works to certain entities.

Section 3 authorizes a conservancy district to:

- Enter into long-term contracts with public and private entities for the accomplishment of functions of the conservancy district; and
- Avail itself of aid, assistance, and cooperation from the federal government, the state government, and local governments.

Sections 4 and 5 allow a conservancy district to establish a water activity enterprise, which is a business that receives less than 10% of its annual revenues in grants from all Colorado state and local governments combined, is authorized to issue its own revenue bonds, and is excluded from the provisions of the "Taxpayer's Bill of Rights" in the state constitution.

(Note: This summary applies to this bill as introduced.)

Status: 1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

Date Introduced: 2024-01-10

[SB24-127](#)

Regulate Dredged & Fill Material State Waters

Comment:**Position:****Calendar**

NOT ON CALENDAR

Notification:**Short Title:**

Regulate Dredged & Fill Material State Waters

Sponsors:

B. Kirkmeyer (R) / S. Bird (D)

Summary:

The bill creates the stream and wetlands protection commission (commission) in the department of natural resources (department) and requires the commission to develop, adopt, and maintain a dredge-and-fill permit program (permit program) for:

- Regulating the discharge of dredged or fill material into certain state waters; and
- Providing protections for state waters, which protections are no more restrictive than the protections provided under the federal "Clean Water Act" as it existed on May 24, 2023.

The bill creates the stream and wetlands protection division (division) in the department to administer and enforce the permit program.

The commission is required to promulgate rules as expeditiously as is prudent and feasible concerning the issuance of permits under the permit program. Until the division implements such rules, the bill prohibits the water quality control division in the department of public health and environment from taking any enforcement action against an activity that includes the discharge of dredged or fill material into state waters if the activity causing the discharge is conducted in a manner that provides for protection of state waters consistent with the protections that would have occurred through compliance with federal law prior to May 25, 2023.

The bill establishes enforcement mechanisms for the permit program. A person who violates the terms of a permit, a rule, or a cease-and-desist order or clean-up order is subject to a civil penalty of not more than \$10,000 per day per violation.

The bill directs the state treasurer to transfer \$600,000 from the severance tax operational fund to the capital construction fund on July 1, 2024, for the implementation of the bill.

(Note: This summary applies to this bill as introduced.)

Status:

2/6/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

Date Introduced: 2024-02-06

[SB24-129](#)

Nonprofit Member Data Privacy & Public Agencies

Comment:

Position:

Calendar NOT ON CALENDAR

Notification:

Short Title: Nonprofit Member Data Privacy & Public Agencies

Sponsors: B. Pelton (R) | C. Kolker (D) / C. deGruy Kennedy (D) | L. Frizell (R)

Summary: With certain exceptions, the bill prohibits a public agency from:

- Requiring any person to provide the public agency with data that may identify a member of a nonprofit entity (member-specific data) or compelling the disclosure of member-specific data;
- Disclosing member-specific data to any person; or
- Requesting or requiring a current or prospective contractor or a current or prospective grantee of a grant program administered by the public agency to provide a list of nonprofit entities to which the current or prospective contractor or grantee has provided financial or nonfinancial support.

A nonprofit entity or any of its members affected adversely by a public agency's violation of the bill's provisions may initiate a civil action against the public agency in district court for injunctive relief, damages, or such other relief as is appropriate. Notwithstanding existing laws concerning governmental immunity, a court may award damages against a public agency that violates the bill's provisions as follows:

- Not less than \$2,500 for each violation; and
- Not less than \$7,500 for each intentional violation.

A court may also award the costs of litigation to a complainant that prevails in such an action.

(Note: This summary applies to this bill as introduced.)

Status: 2/6/2024 Introduced In Senate - Assigned to Business, Labor, & Technology

Date Introduced: 2024-02-06

[SB24-148](#)

Precipitation Harvesting Storm Water Detention

Comment:

Position:

Calendar	Wednesday, February 28 2024
Notification:	SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE Upon Adjournment SCR 352 (1) in senate calendar.
Short Title:	Precipitation Harvesting Storm Water Detention
Sponsors:	K. Van Winkle (R)
Summary:	Under current law, an entity that owns, operates, or has oversight over a storm water detention and infiltration facility (facility) is not allowed to divert, store, or otherwise use water detained in the facility. For facilities that are also approved for use as a precipitation harvesting facility, either through a substitute water supply plan or an augmentation plan, the bill authorizes the use of water detained in the facility for precipitation harvesting. <i>(Note: This summary applies to this bill as introduced.)</i>
Status:	2/28/2024 Senate Committee on Agriculture & Natural Resources Refer Amended - Consent Calendar to Senate Committee of the Whole
Date Introduced:	2024-02-07

SB24-165**Air Quality Improvements****Comment:****Position:**

NOT ON CALENDAR

Notification:**Short Title:** Air Quality Improvements**Sponsors:** K. Priola (D) | L. Cutter (D) / M. Rutinel (D) | L. Garcia (D)

Summary: On or before December 31, 2028, the bill requires the air quality control commission (AQCC) in the department of public health and environment (department) to adopt by rule certain emission standards and requirements for in-use, off-road, diesel-fueled fleets.

On or before December 31, 2025, the AQCC must adopt rules for controlling emissions from facilities, buildings, structures, installations, or real property that generates mobile source activity that results in emissions of air pollutants (indirect source) within the 8-hour ozone Denver metro/north front range nonattainment area (covered nonattainment area). The rules must include emission reduction targets for indirect sources to achieve and a process for the division of administration (division) in the department to review alternative approaches proposed by an owner or operator of an indirect source. The commission may establish a fee for indirect sources within the covered

nonattainment area to cover the division's costs in implementing the rules.

The bill also defines "ozone season" as the period beginning May 1 and ending September 30 of each year (ozone season). Beginning in the 2025 ozone season, and in each ozone season thereafter, any oil and gas preproduction activity within the covered nonattainment area must pause for the duration of the ozone season.

On or before June 30, 2024, and on or before each June 30 thereafter, an oil and gas operator in the state is required to submit an oil and natural gas annual emission inventory report (inventory report) to the division that includes, for the previous calendar year, the emissions of certain air pollutants from oil and gas operations under the control of the oil and gas operator.

On or before October 1, 2024, and on or before each October 1 thereafter, the division, in coordination with the energy and carbon management commission (ECMC), must prepare a report regarding the inventory reports received by the division for the previous calendar year and certain other information.

On or before November 30, 2024, and on or before each November 30 thereafter, for the ozone season of the subsequent year, an oil and gas operator that controls oil and gas operations in the covered nonattainment area must submit a report to the division estimating emissions of nitrogen oxides from the oil and gas operator's operations in the covered nonattainment area (estimates).

For the 2025 ozone season, and for each ozone season thereafter, the ECMC, in consultation with the division, must develop an ozone season nitrogen oxides emission budget (budget) for the emissions of nitrogen oxides by oil and gas operations in the covered nonattainment area, which budget must set certain maximum average emission levels of nitrogen oxides by oil and gas operations.

On or before February 1, 2025, and on or before each February 1 thereafter, the division must prepare a nitrogen oxides report regarding the estimates received by the division for use by the ECMC in determining if the total estimates received exceed the budget for the ozone season of the current year.

Beginning in February 2025, and in each February thereafter, the ECMC, in consultation with the division, must act to limit emissions of nitrogen oxides from oil and gas operations in the covered nonattainment

area in a manner that prevents an exceedance of the current year's budget.

The bill also requires the department of transportation to establish vehicle miles traveled reduction targets for the covered nonattainment area and to develop policies and programs to assist applicable metropolitan planning organizations in meeting the targets.

(Note: This summary applies to this bill as introduced.)

Status: 2/22/2024 Introduced In Senate - Assigned to Transportation & Energy
Date Introduced: 2024-02-22

[SJR24-004](#) **Water Projects Eligibility Lists**

Comment:
Position: **Support**
Calendar NOT ON CALENDAR
Notification:
Short Title: Water Projects Eligibility Lists
Sponsors: D. Roberts (D) | C. Simpson (R) / K. McCormick (D) | M. Catlin (R)
Summary: *** No bill summary available ***
Status: 2/27/2024 Sent to the Governor
Date Introduced: 2024-01-17



February 26, 2024

Re: Colorado Water Congress Comments on CDPHE Draft Bill Outline for Dredge and Fill Activities

Dear Speaker McCluskie:

Colorado Water Congress appreciates the opportunity to comment on the draft CDPHE Dredge & Fill Program legislative outline shared with stakeholders on February 12. The Colorado Water Congress and its members are continuing to review the draft legislative outline and have participated in several meetings that you sponsored. The Colorado Water Congress's review and discussion of the draft legislative outline is ongoing. The following are preliminary comments developed during this review, and Colorado Water Congress will share additional comments as they are developed. We look forward to continued engagement and discussion of this proposed program, which is critical to everyone with an interest in protecting Colorado's waters.

Comment #1: Conditions specific to water projects

The draft bill outline in Section (2)(e)(iv) (pg. 6, lines 2-3) would authorize the Water Quality Control Commission to consider including conditions in discharge authorizations designed to "for water supply projects, regulate both the discharge of dredged or fill material and the operation of the activity as a whole."

The Colorado Water Congress has concerns with this proposed section:

First, it is not appropriate to single out water supply project authorizations for regulation of the operation of the project. There is no clear rationale for regulating the operation of water projects in this manner, in a program for permitting discharges of dredged and fill materials.

Second, this draft provision conflicts with Section 25-8-104(1) of the Colorado Water Quality Control Act, which provides that 1) nothing in the CWQCA shall be interpreted so as to supersede, abrogate, or impair rights to divert water and apply water to beneficial uses, and 2) nothing in the CWQCA shall be construed, enforced, or applied so as to cause or result in material injury to water rights. The proposed authority to regulate the operation of water supply projects without any limitations or guidelines on the Commission's rules or the Division's exercise of proposed authority to regulate the operation of water projects.

Comment #2:

The draft bill outline in Section (3)(d) (pg. 7, lines 30-40) would require the Water Quality Control Commission to include application requirements for projects subject to individual authorizations including an "alternatives analysis" and "purpose and need."

The Colorado Water Congress has concerns that the application of this proposed section to water projects would conflict with decreed water rights. Conditional water rights decrees for water projects require the project proponent to demonstrate to the water court that the waters can and will be diverted or otherwise controlled and will be beneficially used, and that the project can and will be

completed with diligence and within a reasonable time. C.R.S. § 37-92-305(9)(b). In addition, applicants must show a non-speculative intent to appropriate the water. To make this showing, Colorado law requires a governmental water supply agency to demonstrate a reasonable water supply planning period, substantiated population projections based on a normal growth rate for that period, and the amount of available water is reasonably necessary to serve the reasonably anticipated needs of the agency for the planning period. *Pagosa Area Water & San. Dist. v. Trout Unlimited*, 170 P.3d 307, 313 (Colo. 2007). Thus, in order to obtain a conditional water right, the project proponent must prove in Colorado's water court the purpose of and need for the water project.

The proposed requirement to demonstrate the purpose and need, and conduct an alternatives analysis to a state agency is inconsistent with the protection of decreed water rights, and threatens regulatory analyses that are inconsistent with judicial decisions of state courts. In addition, these analyses can require significant time, resources, and funding to complete which may inadvertently cause the project to be delayed. Project delays associated with duplicative approvals would be inconsistent with the goals of the Colorado Water Plan that include promoting permitting efficiency for the critical water projects necessary to supply water for the state's needs.

The Colorado Water Congress State Affairs Committee strongly recommends the requirements as described above be removed from the CDPHE draft bill outline and absent from any bill introduced in the legislature.

Comment #3:

Colorado Water Congress has a significant concern about the capacity and ability of the Colorado Water Quality Control Commission and Colorado Water Quality Control Division to take responsibility for the program as drafted.

The Colorado Water Quality Control Commission and Division already administer two programs – the Clean Water program and the Safe Drinking Water program. These programs have disparate, technical, and complex requirements. Under the Clean Water Program, the Water Quality Control Division has a backlog in issuing renewal permits. The Division has detailed the program challenges in presentations to stakeholders concerning proposed permitting fee increases. In these presentations, the Division has estimated that 70% of the individual permits it administers are backlogged, meaning they are more than 5 years old and have expired so that they are under administrative extension. The Division has estimated that it would have to more than double its output of individual permits and master general permits to meet a goal of 25% backlogged permits. Although the Division is currently seeking fee increases to hire the 24 FTE estimated to be required to clear the backlog, the Division estimates it will take 15 years to reach a target of a 25% backlog. The Water Quality Control Commission processes are also increasingly backlogged, with constraints in the time for the Commission and Division to consider rulemaking proposals resulting in delays of multiple years before matters can be heard by the Commission.

In discussions concerning the draft bill outline, the Division has indicated that they assume that most projects would proceed under general permits in the proposed program. However, the bill outline as drafted is not sufficiently clear to estimate how many individual permits may be needed compared to the number of general permit authorizations.

It is also evident that adequate funding is essential to ensure the program operates efficiently and meets the needs of both the stakeholders and the intent of the program. The Colorado Water Congress recommends addressing these resource and funding challenges for a state dredge and fill program.

Thank you again for the opportunity to provide comments regarding the draft legislative outline to establish a state dredge and fill permitting program.

Sincerely,



Gabe Racz
CWC Dredge & Fill Subcommittee Co-Chair



Jessica La Pierre
CWC Dredge & Fill Subcommittee Co-Chair