

Colorado Water Congress  
State Affairs Committee Meeting  
Report prepared by the Southwestern Water Conservation District

**March 6, 2017 Water Legislation Report #9 (2017 Legislative Session)**

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The State Affairs Committee met on Monday, March 6 to review proposed bills. Legislation that has been introduced since the last meeting include: **HB 1219** (Extension of CWCB Ag Water Leasing Pilot Program) and **SB 202** (Species Conservation Trust Fund). The next meeting of the State Affairs Committee is scheduled for Monday, March 13.

The subcommittee to address issues behind **SB 117** (Recognize Industrial Hemp Ag Product for Ag Water Right) met on Monday morning, and is co-chaired by Bruce Whitehead and Representative Valdez from the San Luis Valley. The State Affairs Committee has acted to oppose the bill, but acknowledge the conflicts between state and federal law regarding federal facilities.

Discussions continue regarding **SB 40** (Public Access to Electronic Files), and recent amendments that have been introduced. The Secretary of State is supportive of the legislation, but the Water Congress has taken a position of opposition to the bill with concerns about impacts to small Districts and the possibility of data-mining for profit by outside interests. If the bill moves forward, the Water Congress staff will continue to push for amendments that address those concerns as well as project security related issues.

Legislation is to be introduced the week of March 6 allowing seaplanes to land on lakes and reservoirs in Colorado. The proponents are now proposing a “pilot program” for two lakes to be identified by the Wildlife Commission, and the bill could include a training component for pilots and self-regulation. There was general concern expressed by the State Affairs Committee this year as well. Past attempts at similar legislation did not pass due to concerns about Aquatic Nuisance Species (ANS).

The format of each bill includes five columns and a following **Summary** cell. The 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, & 5<sup>th</sup> column each contain two information items as follows: 1<sup>st</sup> column has both the **Bill No.** and the **Short Title**. The 2<sup>nd</sup> column has both the **Sponsors** and the assigned **Committee**. The 3<sup>rd</sup> column contains only the **Concerning** statement, copied directly from the bill. The 4<sup>th</sup> column will show important **Amendments** and **Comments**. The 5<sup>th</sup> column shows both **When Introduced**, **CWC Action**, and **SWCD Position**. Once a bill no longer requires SA Comm action I will include it in a summary table, which will also show its progress. Until CWC takes action, the bill will remain in this format. I will however, **highlight in yellow** changes in any of the cells, compared to the prior report. Once, CWC has acted on a bill, I will move it to the **Status table**, where its' progress can be more easily monitored.

If you are aware of other entities or individuals that would like to receive these reports, please contact the Southwestern Water Conservation District office at 970-247-1302 with e-mail contact information.

Once introduced, copies of bills are available at [www.leg.state.co.us](http://www.leg.state.co.us).

Additional info is available at the CWC web site: <http://www.cowatercongress.org/stateaffairs/>

FYI: Legislator Contact Information

Senator Don Coram (SD 6):	303-866-4884	<a href="mailto:don.coram.senate@state.co.us">don.coram.senate@state.co.us</a>
Representative Barbara McLachlan (HD 59):	303-866-2914	<a href="mailto:barbara.mclachlan.house@state.co.us">barbara.mclachlan.house@state.co.us</a>
Representative Marc Catlin (HD 58):	303-866-2955	<a href="mailto:marc.catlin.house@state.co.us">marc.catlin.house@state.co.us</a>

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p><b>SJR 013</b></p> <p><b>Public Input and General Assembly Review Before Before New Nutrient Requirements</b></p>	<p><b>S Coram H N/A</b></p> <p><b>Ag, Natural Resources &amp; Energy</b></p>	<p>CONCERNING THE ENCOURAGEMENT OF STAKEHOLDER INPUT WITH SUBSEQUENT LEGISLATIVE REVIEW PRIOR TO THE IMPLEMENTATION OF ADDITIONAL NUTRIENT DISCHARGE CONTROLS.</p>	<p><i>Consideration was postponed until 3/13, after an opportunity to speak with the Sponsor and to seek additional comments from the CWC Water Quality Committee..</i></p>	<p><b>02/14//17</b></p> <p><b>POSTPONE</b></p> <p><b>SWCD Position: DISCUSSION</b></p>
<p><b>SUMMARY:</b> Be It Resolved by the Senate of the Seventy-first General Assembly of the State of Colorado, the House of Representatives concurring herein: That we, the members of the General Assembly:</p> <p>(1) Encourage interested stakeholders, including the Division, members of the regulated community, drinking water providers, the agricultural community, the conservation community, and the general public, beginning as soon as possible and prior to the Commission's scheduled triennial review of Regulation #85 in October 2017, to participate through the established Water Quality Forum workgroup process to evaluate holistic regulatory alternatives and cooperative strategies to ensure that additional statewide nutrient reduction approaches:</p> <ul style="list-style-type: none"> <li>(a) Focus spending where it will have the most environmental benefit;</li> <li>(b) Take into consideration the technical and economic feasibility of treatment;</li> <li>(c) Are environmentally sustainable;</li> <li>(d) Do not unnecessarily burden small, rural, or disadvantaged communities;</li> <li>(e) Are consistent with the goals of Colorado's State Water Plan;</li> <li>(f) Include strategies for measuring nutrient reductions achieved over time; and</li> <li>(g) Reflect input from participating stakeholders; and</li> </ul> <p>(2) Encourage the Division and other participating stakeholders, prior to the Commission's October 2017 triennial review of Regulation #85, to present strategies identified during the Water Quality Forum workgroup process to a joint meeting of the Senate Agriculture, Natural Resources, and Energy Committee and the House Agriculture, Livestock, and Natural Resources Committee no later than February 28, 2017.</p> <p>Be It Further Resolved, that copies of this Joint Resolution be sent to Governor John Hickenlooper, each member of Colorado's congressional delegation, and Dr. Larry Wolk, the executive director of the department of public health and environment.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p><b>SB 202</b></p> <p><b>Species Conservation Trust Fund</b></p>	<p><b>S Coram H Esgar</b></p> <p><b>Ag, Natural Resources &amp; Energy</b></p>	<p>CONCERNING MEASURES TO CONSERVE NATIVE SPECIES IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING APPROPRIATIONS FROM THE SPECIES CONSERVATION TRUST FUND FOR PURPOSES RECOMMENDED BY THE DEPARTMENT OF NATURAL RESOURCES.</p>	<p><i>Calendared in Senate Ag Committee on 3/9, unanimous consent to take position at 3/6 SA meeting.</i></p>	<p><b>02/28/17</b></p> <p><b>SUPPORT</b></p> <p><b>SWCD Position: DISCUSSION</b></p>
<p><b>SUMMARY:</b> The bill appropriates \$1.5 million from the species conservation trust fund for programs submitted by the executive director of the department of natural resources that are designed to conserve native species that state or federal law list as threatened or endangered or that are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service as follows:</p> <ul style="list-style-type: none"> <li>*Native terrestrial wildlife conservation, \$375,000;</li> <li>*Native aquatic wildlife conservation, \$375,000;</li> <li>*Platte river recovery implementation program, \$600,000; and</li> <li>*Nonnative fish control, \$150,000.</li> </ul>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<b>HB 1008</b>  Graywater Regulations Exemption for Scientific Research	H Arndt S Sonnenberg  Ag, Livestock & Natural Resources	CONCERNING AN EXEMPTION FROM THE WATER QUALITY CONTROL COMMISSION'S GRAYWATER CONTROL REGULATIONS FOR GRAYWATER USED FOR THE PURPOSE OF SCIENTIFIC RESEARCH INVOLVING HUMAN SUBJECTS.	<i>Postponed at request of Sponsor until first meeting in March unless calendared for committee earlier.</i>	01/11/17  <b>POSTPONE</b>  SWCD Position: DISCUSSION
<p><b>SUMMARY: Water Resources Review Committee.</b> The water quality control commission in the department of public health and environment (commission) is responsible for developing requirements, prohibitions, and standards that protect public health and water quality for the use of graywater for nondrinking purposes. Scientific research on graywater that might involve graywater uses and systems that do not strictly comply with the requirements, prohibitions, and standards developed by the commission would not be permitted under the control regulations.</p> <p>To facilitate scientific research related to graywater uses and systems, the bill <b>creates an exemption</b> from the commission's graywater control regulations for scientific research involving human subjects whereby a person may collect and use graywater for purposes of scientific research involving human subjects if the person:</p> <ul style="list-style-type: none"> <li>• Seeks to conduct the scientific research on behalf of an institution of higher education;</li> <li>• Utilizes a graywater treatment works system that incorporates a secondary water supply to provide an alternative source of water if any portion of the system does not function properly; and</li> <li>• Collects and uses graywater in accordance with the terms and conditions of the decrees, contracts, and well permits applicable to the use of the source water rights or source water and any return flows.</li> </ul> <p>The person is required to report to the water resources review committee on an annual basis the results of periodic monitoring conducted to assess the continued functioning of the graywater treatment works system used in the project and the project's compliance with federal rules concerning the protection of human research subjects.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p><b>HB 1190</b></p> <p>Limited Applicability Of St. Jude's Co. Water Case</p>	<p><b>H Becker</b> S N/A</p> <p>Ag, Livestock &amp; Natural Resources</p>	<p>CONCERNING THE LIMITED APPLICABILITY OF THE COLORADO SUPREME COURT'S DECISION IN ST. JUDE'S CO. V. ROARING FORK CLUB, LLC, 351 P.3d 442 (COLO. 2015).</p>		<p>02/17/17</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p><b>SUMMARY:</b> In the case of St. Jude's Co. v. Roaring Fork Club, LLC, 351 P.3d 442 (Colo. 2015) (St. Jude's Co.), the Colorado supreme court held that direct diversions of water from a river to a private ditch for aesthetic, recreational, and piscatorial purposes on private property, without impoundment, are not beneficial uses of water under Colorado water law. The bill provides that the decision in the St. Jude's Co. case interpreting section 37-92-103 (4) <b>does not apply to previously decreed absolute and conditional water rights</b> or claims pending as of July 15, 2015. The interpretation of section 37-92-103 (4) in St. Jude's Co. applies only to direct flow appropriations, without storage, made after July 15, 2015, for water diverted from a surface stream to a private ditch on private property for aesthetic, recreational, and piscatorial purposes.</p>				
<p><b>HB 1219</b></p> <p>Extension of CWCB Ag Water Leasing Pilot Program</p>	<p><b>H Ardent and McLachlan</b> S Crowder and Donovan</p> <p>Ag, Livestock &amp; Natural Resources</p>	<p>CONCERNING AN EXTENSION OF THE AGRICULTURAL WATER LEASING PILOT PROGRAM ADMINISTERED BY THE COLORADO WATER CONSERVATION BOARD.</p>		<p>03/02/17</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p><b>SUMMARY:</b> The Colorado water conservation board (board) administers a pilot program to demonstrate the practice of fallowing agricultural irrigation land and leasing the associated water rights for temporary municipal, agricultural, environmental, industrial, or recreational use. Under the current pilot program, the board, in consultation with the state engineer, may authorize up to 10 pilot projects, each of duration up to 10 years.</p> <p>Of the 10 pilot projects that the board may authorize, no more than 3 pilot projects may be located in any one of the following major river basins: The South Platte river basin; the Arkansas river basin; the Rio Grande river basin; and the Colorado river basin. An applicant must apply on or before December 31, 2018, to sponsor a pilot project. The pilot program is scheduled to be completed in 2029, at which time the board, in consultation with the state engineer, is required to provide a final report to the water resources review committee, or its successor committee, on the results of the pilot projects authorized.</p> <p>The bill <b>extends the pilot program</b> as follows:</p> <ul style="list-style-type: none"> <li>*The board, in consultation with the state engineer, may authorize up to 15 pilot projects;</li> <li>*No more than 5 pilot projects may be located in any one of the 4 major river basins listed above;</li> <li>*An applicant must apply on or before December 31, 2023, to sponsor a pilot project; and</li> <li>*The pilot program would be completed in 2034, at which time the board, in consultation with the state engineer, would provide a final report to the water resources review committee or its successor committee.</li> </ul>				

