

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

February 18, 2014 Report #7 Water (2014 Legislative Session)

The State Affairs Committee met on Tuesday February 18, 2014 to discuss water legislation introduced during the 2014 Session. The Resolution proposed by the Interim Committee has yet to be introduced. Discussion occurred, or action was taken on the bills included in the summary below. All legislation considered by the Water Congress is included in this week's report, and once the State Affairs Committee has taken action on a bill it will be moved to the status sheet the following week. The next scheduled meeting of the State Affairs Committee is Monday February 24, 2014.

There are a number of water related bills that have been introduced by the members of the General Assembly, and many of the bills have been heard by the respective Committees and on the floor of the House or Senate. Legislation introduced, and requested for discussion or action since the last meeting include: **SB 142** – (Inspection Exceptions For Certain Water Facilities by Department of Agriculture), **SB 145** – (Incentives for Water Conservation), and **SB 147** - (Study on Impact of Increased Well Pumping, South Platte).

At the meeting last Monday February 10, the State Affairs Committee took a position to “Amend and to Support a Collaborative Process for the Legislative and Executive Branches” on **SB 115** regarding Colorado's Water Plan. Representatives of the Executive Branch met with the bill sponsors, and an amendment was introduced and passed in the Senate Ag, Natural Resources, and Energy Committee. The amendment was supported by the Executive Branch (Governor's Office) with testimony provided by John Stulp from the IBCC (Inter-basin Compact Commission). The State Affairs Committee voted to **reconsider** the position taken on the bill, and voted to **Support** the amended version of **SB 115**. The amended version of the bill provides the opportunity to review and comment on Colorado's Water Plan by the Water Resources Review Committee (WRRC), and for the WRRC to hold public hearings on the Water Plan in each geographic area associated with the Basin Roundtables.

After the third and final meeting of the **SB 23** sub-committee meeting the proponents circulated a re-draft of the legislation, which incorporated nearly all of the changes recommended by the State Affairs sub-committee. The SB 23 sub-committee recommended support of the legislation as amended pending review of the draft. The State Affairs Committee voted to **Support** the revised version of the bill.

Senator Roberts has circulated a strike below version of **SB 17** (Lawn Legislation) that would amend the legislation as introduced, and refer the concept to the Water Resources Review Committee for further development with the possibility of legislation on outdoor water conservation to be introduced during the session next year. The amendment and bill are scheduled for 2nd Reading in the Senate this week. Pending the outcome on the Senate Floor, the amended version of the bill may be up for reconsideration by the State Affairs Committee of the Water Congress next week.

Proposed Legislation: It is anticipated that the Colorado Water Conservation Board (CWCB) will introduce their annual project and funding bill in the near future. The Central Colorado Water Conservancy District has been working on legislation that would implement many of the recommendations from the South Platte Groundwater Study (HB 1278) from the 2012 Session.

Please Note: The CWC received notice that Phil Doe and Barbara Mill-Bria filed **Initiative 73, “The State’s Duties Under the Public Trust Doctrine to Secure the Rights of the People to Protect Natural Resources”**. The Colorado Water Congress launched the Colorado Water Stewardship Project last year to prepare for the anticipated Public Trust Doctrine ballot proposal. All water interests in Colorado should become educated about the adverse impacts to our current water rights system and to the Doctrine Of Prior Appropriation if this ballot measure were to be successful. This initiative is currently set for a Review and Comment Hearing on February 21 at 1:30 pm. Initiative 73 is attached for your review. Learn more at <http://cowaterstewardship.com/>

The format of each bill includes five columns and a following **Summary** cell. The 1st, 2nd, 4th, & 5th column each contain two information items as follows: 1st column has both the **Bill No.** and the **Short Title**. The 2nd column has both the **Sponsors** and the assigned **Committee**. The 3rd column contains only the **Concerning** statement, copied directly from the bill. The 4th column will show important **Amendments** and **Comments** provided by either me or John Porter. The 5th column shows both **When Introduced** and **CWC Action**. 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 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. Additional info is available at the CWC web site:
<http://www.cowatercongress.org/stateaffairs/>

FYI: Legislator Contact Information

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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB 1184 Elect Pueblo Conservancy Dist Bd Flood Mitigation	H Vigil S Grantham Local Government	CONCERNING CONSERVANCY DISTRICTS.	<i>Representative Vigil will amend the bill title to be specific to “Flood” Conservancy Districts. Also will eliminate the election provision, and members will appoint their respective board representation. Amendments were circulated prior to the meeting on 2/18/14.</i>	01/29/14 SUPPORT (As amended)

SUMMARY: Conservancy districts may be formed by a local election to reduce flood risk, conserve or develop water resources, or participate in the development of parks or recreational facilities.

Section 1 of the bill **clarifies** that when a director no longer resides within a conservancy district, a vacancy is created on the district's board of directors. The remainder of the bill applies only to the Pueblo conservancy district.

Section 1 increases the board of directors from 3 to 7 directors, makes the existing 3 directors at-large representatives, and specifies that the 4 new directors represent, respectively, the Colorado city metropolitan district (whose initial term is 2 years), the city of Pueblo (whose initial term is 3 years), the Pueblo West metropolitan district (whose initial term is 4 years), and those portions of Pueblo county not already represented (who serves a full 5-year term). All new vacancies must be filled by election rather than appointment by a district court judge.

Section 2 specifies that the Pueblo conservancy district may spend district revenues, including from its construction and maintenance funds, for the following purposes, in the following order of priority:

- First, for the maintenance, repair, replacement, or improvement of the district's existing flood control levees;
- Second, for flood mitigation projects located in whole or part within the district, whether capital or otherwise, in the affected watershed upstream of the district's existing flood control levees; and
- Third, for flood mitigation projects located in whole or part within the district, whether capital or otherwise, in the affected watershed downstream of the district's existing flood control levees.

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB 1218</p> <p>Replace Groundwater Depletions With Surface Water</p>	<p>H Fischer S N/A</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING THE USE OF SURFACE WATER TO REPLACE OUT-OF-PRIORITY GROUNDWATER DEPLETIONS WITHOUT REQUIRING ADDITIONAL WATER COURT APPROVAL PURSUANT TO A STREAMLINED APPROACH ADOPTED BY THE STATE ENGINEER AS A PILOT PROJECT.</p>	<p><i>Discussion occurred, Tabled for possible action until 02/18/14.</i></p>	<p>01/30/14</p> <p>OPPOSE</p>
<p>SUMMARY: The bill allows the use of surface water to replace or augment out-of-priority groundwater depletions without the necessity of filing an application for a change of water right if both the surface water and the well have been decreed or permitted for use on the same parcel of land, the use of the surface water does not result in any enlargement in the use of water, and the use complies with a rule adopted by the state engineer.</p> <p>Section 1 of the bill alters the definition of a change of a water right, and</p> <p>Section 2 amends the augmentation and replacement statute for tributary water.</p> <p>Section 3 authorizes the state engineer to adopt the rule as a pilot project and repeals the authority on September 1, 2020.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 023</p> <p>Transfer Water Efficiency Savings To Instream Use</p>	<p>S Schwartz H N/A</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING AN AUTHORIZATION OF THE VOLUNTARY TRANSFER OF WATER EFFICIENCY SAVINGS TO THE COLORADO WATER CONSERVATION BOARD FOR INSTREAM USE PURPOSES IN WATER DIVISIONS THAT INCLUDE LANDS WEST OF THE CONTINENTAL DIVIDE.</p>	<p><i>SA Sub-committee formed met on 1/21/14 and 1/27/14, and 2/04/14 Twelve issues identified at first meeting with response from bill proponents at second meeting. Sub-committee to recommend support with amendments to full SA on 2/10/14. Draft of amended legislation circulated to SA for action on 2/18/14.</i></p>	<p>01/08/14</p> <p>SUPPORT</p>
<p>SUMMARY: Section 1 of the bill defines "water efficiency savings" as that portion of a water right used solely for agricultural irrigation or stock watering purposes in water division 4, 5, 6, or 7 that is nonconsumptive under existing practices and that results from efficiency measures, determined as the difference between:</p> <p>! The lesser of the decreed diversion amount and the maximum amount that had been historically diverted using the existing facilities for a beneficial use under reasonably efficient practices to accomplish without waste the purpose for which the appropriation was lawfully made; and</p> <p>! The diverted amount needed to meet the decreed beneficial use after increased efficiency in the means of diversion, conveyance, storage, application, or use.</p> <p>Section 2 allows water efficiency savings to be changed or loaned, pursuant to existing water court and water loan statutes, only to the Colorado water conservation board, only for instream use, and only if:</p> <ul style="list-style-type: none"> - The application was filed within 2 years after the diversions were decreased due to efficiency measures; - The change or loan will not materially injure decreed water rights; and - The change or loan will not adversely affect Colorado's interstate compact entitlements or obligations. <p>The change decree or loan approval must identify the amount of water efficiency savings and the stream reaches within which water efficiency savings, as changed or loaned, will be used. Water efficiency savings that have been changed or loaned are not subject to abandonment. The parties who enter into a change or loan of water efficiency savings may provide conditions by which the original decreed diversion rate may be preserved for a future use by the water right owner who implements the efficiency measures if use of the efficiency measures is discontinued.</p>				
<p>SB 115</p> <p>State Water Plan Public Review & GA Approval</p>	<p>S Roberts/Schwartz H Fischer/Coram</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING PROCEDURAL REQUIREMENTS APPLICABLE TO STATE WATER PLANS.</p>	<p><i>Considerable discussion by SA, Senator Roberts, and John Stulp (IBCC). CWC offered to assist in discussions between Executive and Legislative Branch if requested. Discussion on 02/10/14 by Senator Schwartz, Representative Fischer, and James Eklund (CWCB). Amendments passed in Senate Ag, and agreed to by Legislators and Executive Branch. Reconsideration of SB 115 on 02/18/14.</i></p>	<p>01/27/14</p> <p>SUPPORT (As Amended 02/18/14)</p>
<p>SUMMARY: The bill requires the Colorado water conservation board to hold a hearing on a draft state water plan within each basin roundtable, update the plan based on public comments, and present the draft plan to the water resources review committee. The committee must vote on whether to introduce legislation that would approve the plan. The plan does not embody state water policy unless the general assembly, acting by bill, approves the plan.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 134</p> <p>Repeal Statutory Water Quality Fee Schedules</p>	<p>S Hodge H May/Gerou</p> <p>Appropriations</p>	<p>CONCERNING THE REPEAL OF STATUTORY FEE SCHEDULES APPLICABLE TO WATER QUALITY.</p>	<p><i>Joint Budget Committee Stakeholder meeting 02/10/14. Possible Action by SA next week 02/18/14. Amendments circulated to SA prior to meeting on 02/18/14.</i></p>	<p>01/27/14</p> <p>MONITOR</p>
<p>SUMMARY: Joint Budget Committee. Section 1 of the bill:</p> <ul style="list-style-type: none"> - Repeals the water quality control fund and the statutory schedule of fees applicable to numerous categories and subcategories of water quality discharge permits; - Creates the public and private utilities fund, construction fund, commerce and industry fund, pesticides fund, and water quality certifications fund; - Identifies the particular entities that must pay fees into the new funds and the services for which the fees must be set to cover; and - Gives the water quality control commission rule-making authority to set the fees for the various funds and categories of water quality discharge permits. <p>The animal feeding operations fund is reenacted, as are the procedural requirements applicable to the review, issuance, and appeal of water pollutant discharge permits.</p> <p>Sections 2 through 4 make conforming amendments.</p> <p>Section 5 repeals the drinking water cash fund's statutory schedule of fees applicable to numerous categories and subcategories of public water systems and gives the water quality control commission rule-making authority to set the fees.</p>				
<p>SB 142</p> <p>Pesticide Inspection Water And Wastewater Systems</p>	<p>S Schwartz H Fischer</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING AN EXCEPTION FOR CERTAIN WATER SYSTEM FACILITIES FROM THE FACILITIES THAT THE COMMISSIONER OF AGRICULTURE HAS A DUTY TO INSPECT REGARDING PESTICIDE STORAGE.</p>	<p><i>Discussion will occur next week on 02/18/14.</i></p>	<p>02/07/14</p> <p>MONITOR</p>
<p>SUMMARY: The commissioner of agriculture regulates the use of agricultural chemicals in Colorado. As part of that duty, the commissioner inspects all facilities in Colorado that store pesticides, including public water systems and domestic wastewater treatment works; however, public water systems and domestic wastewater treatment works are also inspected by the water quality control division in the Colorado department of public health and environment to facilitate the water quality control commission's regulation of water quality throughout the state. The bill eliminates these facilities from the commissioner's regulation requirements.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 145</p> <p>Water Conservation Incentives</p>	<p>S Hodge/Roberts H N/A</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING INCENTIVES FOR THE CONSERVATION OF WATER.</p>		<p>02/13/14</p> <p>DISCUSSION</p>
<p>SUMMARY: The bill requires certain local governments to consider whether tap fees should be reduced if a developer commits to the implementation of water efficiency and conservation measures with regard to irrigated landscapes, including open space and residential lawns, within the subdivision. Section 1 applies to counties, section 2 applies to municipalities, and section 3 applies to special districts that supply water. Sections 1 and 2 also prohibit county and municipal subdivision regulations from mandating a minimum percentage of a subdivision that must consist of irrigated vegetation or requiring the irrigation of medians. Section 4 directs the Colorado water conservation board, in its awards of incentive grants for the design and implementation of water efficiency and conservation measures, to give priority to public agencies that require new subdivisions to implement water efficiency and conservation measures with regard to irrigated landscapes, including open space and residential lawns.</p>				
<p>SB 147</p> <p>Increased Well Pumping Study South Platte River</p>	<p>S Renfroe H Fischer/Saine</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING A STUDY TO DETERMINE THE IMPACT OF INCREASED ALLUVIAL WELL PUMPING IN DISTRICT 2 OF WATER DIVISION 1.</p>		<p>02/17/14</p> <p>DISCUSSION</p>
<p>SUMMARY: The bill authorizes the state engineer to conduct a study to determine the impact of increased alluvial well pumping in district 2 of water division 1 on surface stream flows in the South Platte river and alluvial levels in the South Platte alluvial aquifer.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>Resolution A</p> <p>Forest Products Transport Interstate Weight Limit</p>	<p>H Coram S Schwartz</p> <p>N/A</p>	<p>CONCERNING A SPECIAL EXEMPTION FROM INTERSTATE HIGHWAY WEIGHT LIMITS FOR DIVISIBLE TRUCK LOADS CARRYING FOREST PRODUCTS.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION (No Position as IWRRC bill)</p>
<p>SUMMARY: <i>Be It Resolved by the House of Representatives of the Sixty-ninth General Assembly of the State of Colorado, the Senate concurring herein:</i> That we, the members of the Colorado General Assembly, urge Congress to pass legislation creating a special exemption from the federal maximum weight limit on interstate highways for forest product industries. <i>Be It Further Resolved,</i> That copies of this Joint Resolution be sent to members of Colorado's, Arizona's, New Mexico's, Oregon's, Utah's, and Wyoming's congressional delegations.</p>				