

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

January 7, 2019 Water Legislation Report #1 (2019 Legislative Session)

The State Affairs Committee met on January 7 to discuss proposed water legislation for consideration in the 2019 legislative session, which convened on January 4. The 2019 General Assembly is led by Senate President Leroy Garcia (D-Pueblo) and House Speaker KC Becker (D-Boulder). Representative Barbara McLachlan (D-Durango), Representative Mark Catlin (R-Montrose), and Representative Julie McCluskie (D-Dillon) from the Western Slope will sit on the House Rural Affairs & Agriculture Committee (formerly Ag, Natural Resources & Livestock). The Committee is chaired by Rep. Dylan Roberts (D-Avon). Senator Don Coram (R-Montrose) is on the Senate Agriculture and Natural Resources Committee, which is chaired by Senator Kerry Donovan (D-Vail).

Below is a short summary, with more detail on the bills that have been introduced in the table below. The following Interim Water Resource Review Committee bills were introduced on the first day of the session:

- [SB19-016](#) (Severance Tax Operational Fund Distribution Methodology)
- [HB19-1029](#) (Republican River Water Conservation District)
- [SJM19-001](#) (Memorial for Arkansas Valley Conduit)
- [SJM19-002](#) (Corps of Engineers to Dredge Lower Arkansas River)

SWCD is monitoring **SB19-016**, which would change the Department of Natural Resources (DNR) Tier I to “core program” and Tier II to “grant program,” and alter the timing of disbursement from the state treasurer to base the amount on actual revenue in arrears, not estimated revenue. The objective of the bill is to provide more stability and accuracy for severance tax revenue disbursements for state water funding, as in the past these were based on forecasts and revenues sometimes had to be clawed back when actual revenues came in lower than estimated.

In addition, the following water-related bills have been introduced:

- [HB19-1015](#) (Recreation of the Colorado Water Institute)
- [HB19-1026](#) (Parks & Wildlife Violations of Laws)
- [HB19-1050](#) (Encourage Use of Xeriscape in Common Areas)

State Affairs Committee will also be monitoring forest health and wildfire-related legislation, and the following bills were introduced:

- [HB19-1006](#) (Wildfire Mitigation Wildland-urban Interface Areas)
- [SB19-020](#) (Wildland Fire Airspace Patrol System)
- [SB19-037](#) (Wildfire Mitigation)
- [SB19-040](#) (Establish Colorado Fire Commission)

Other legislative concepts being discussed include mining reclamation and water quality, the addition of deficit irrigation to CWCB's pilot fallowing-leasing program, increased funding for water plan implementation, and potential fixes to the Gallagher Amendment revenue impacts.

The following table provides a detailed summary of water-related legislation introduced during the current session. 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 SWCD staff. The 5th 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 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

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

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB19 016 Severance Tax Operational Fund Distribution Methodology	S Donovan, Coram H Esgar, Saine Ag & Natural Resources	CONCERNING THE METHODOLOGY TO DISTRIBUTE MONEY IN THE SEVERANCE TAX OPERATIONAL FUND AFTER CORE DEPARTMENTAL PROGRAMS ARE FUNDED WITHOUT CHANGING THE TRANSFERS TO THE NATURAL RESOURCES AND ENERGY GRANT PROGRAMS		01/04/2019 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Water Resources Review Committee. Money in the severance tax operational fund (operational fund) is primarily used for 2 purposes. The general assembly annually appropriates money from the operational fund for several core departmental programs, which were previously described as "tier-one programs". If money remains after these appropriations and after a reserve requirement for the core departmental programs is satisfied, then the state treasurer transfers money to an array of funds that support natural resources and energy grant programs, which were previously described as "tier-two programs". There is also a requirement that the reserve include an amount equal to 15% of the maximum transfers to natural resources and energy grant programs required by law, and this reserve is used for the transfers, if necessary.</p> <p>The bill changes the distribution of the money in the operational fund as follows:</p> <ul style="list-style-type: none"> • Separates the reserve into the core reserve and the grant program reserve, while maintaining the overall purpose of each reserve; • Increases the maximum grant program reserve to 100% of the maximum transfers to the natural resources and energy grant programs required by law, which currently is equal to \$36,378,072; • Requires the state treasurer to make the transfers to the natural resources and energy grant programs on August 15 after a fiscal year and to base the transfers on actual revenue as opposed to estimated revenue. Money from the grant program reserve may be used for these transfers; and • If all of the appropriations and transfers have been made and both reserves are full, then the state treasurer is required to transfer any money remaining in the operational fund to the severance tax perpetual base fund. 				
SB19 020 Wildland Fire Airspace Patrol System	S Coram, Fields H McLachlan State, Veterans & Military Affairs	CONCERNING DEVELOPMENT OF A SYSTEM TO PATROL THE AIRSPACE ABOVE WILDLAND FIRES.		01/04/2019 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Wildfire Matters Review Committee. The bill requires the center of excellence for advanced technology aerial firefighting, subject to available appropriations, to study and, if feasible, implement a system to patrol the airspace above a wildland fire.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SB19 037</p> <p>Wildfire Mitigation</p>	<p>S Woodward</p> <p>State, Veterans & Military Affairs</p>	<p>CONCERNING MEASURES TO MITIGATE WILDFIRES, AND, IN CONNECTION THEREWITH, PERMITTING COUNTY PERSONNEL TO ENTER LAND OWNED BY THE FEDERAL OR STATE GOVERNMENT TO REMOVE WILDFIRE FUEL SOURCES AND APPROPRIATING MONEY FOR THE USE OF THE FOREST RESTORATION AND WILDFIRE RISK MITIGATION GRANT PROGRAM.</p>		<p>01/04/2019</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: In connection with any land area that is owned by the federal or state government that is located either within the territorial boundaries of a county or outside of but within 5 miles of the territorial boundaries of a county, where a supply of wildfire fuel materials exists on the land that is sufficiently concentrated posing a substantial threat of causing or aggravating a wildfire in such area, or where the federal or state government has failed to create a defensible space on such land to reduce the potential for damage from a wildfire, section 1 of the bill permits the board of county commissioners of any county to use persons employed by the county or to contract with for-profit or not-for-profit organizations or entities to supply persons able to enter the federal or state land for the sole purpose of removing such fuel materials or creating such defensible space. Under the bill, a person employed by or contracting with the county is not liable for any damages caused by any conduct he or she undertakes in accordance with this authority unless the person's conduct was due to willful misconduct, gross negligence, or bad faith. Section 2 appropriates \$10 million for the 2019-20 state fiscal year, from the general fund to the department of higher education for allocation to the Colorado state university system to be used for the forest restoration and wildfire mitigation grant program.</p>				
<p>SB19 040</p> <p>Establish Colorado Fire Commission</p>	<p>S Hisey</p> <p>Ag & Natural Resources</p>	<p>CONCERNING THE ESTABLISHMENT OF THE COLORADO FIRE COMMISSION.</p>		<p>01/04/2019</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: The bill establishes the Colorado fire commission (commission) in the division of fire prevention and control in the department of public safety. The commission's purpose is to enhance public safety in Colorado through an integrated statewide process focused on the fire service's capacity to conduct fire management and use, preparedness, prevention, and response activities to safeguard lives, property, and natural resources, and increase the resiliency of local and regional communities. The commission may establish task forces to study and make recommendations on specific subjects within the commission's areas of study. The commission is repealed effective September 1, 2024, and is subject to a sunset review prior to its repeal.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SJM 001</p> <p>Memorial for Arkansas Valley Conduit</p>	<p>S Crowder H Esgar</p> <p>Ag & Natural Resources</p>	<p>MEMORIALIZING THE UNITED STATES CONGRESS TO FULFILL THE COMMITMENT OF THE FEDERAL GOVERNMENT TO PROVIDE FUNDING FOR THE ARKANSAS VALLEY CONDUIT PROJECT.</p>		<p>01/04/2019</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee Be It Resolved by the Senate of the Seventy-second General Assembly of the State of Colorado, the House of Representatives concurring herein: That Congress should act swiftly to fulfill its commitment to provide sufficient funding to provide for the construction of the Arkansas Valley Conduit.</p>				
<p>SJM 002</p> <p>Corps Of Engineers To Dredge Lower Arkansas River</p>	<p>S Crowder, Coram H Esgar, Catlin</p> <p>Ag & Natural Resources</p>	<p>CONCERNING MEMORIALIZING THE UNITED STATES CONGRESS TO ENACT LEGISLATION DIRECTING THE UNITED STATES ARMY CORPS OF ENGINEERS, IN CONJUNCTION AND COOPERATION WITH THE LOWER ARKANSAS VALLEY WATER CONSERVANCY DISTRICT, TO DREDGE A PORTION OF THE ARKANSAS RIVER.</p>		<p>01/0/2019</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee Be It Resolved by the Senate of the Seventy-second General Assembly of the State of Colorado, the House of Representatives concurring herein: That Congress should immediately enact legislation that directs the United States Army Corps of Engineers, in conjunction and cooperation with the Lower Arkansas Valley Water Conservancy District, to dredge a portion of the Lower Arkansas River from below the Fort Lyons diversion to the John Martin Reservoir.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB19 1006 Wildfire Mitigation Wildland-urban Interface Areas	H McLachlan, Carver S Fields Rural Affairs & Ag	CONCERNING MEASURES TO MITIGATE THE EFFECTS OF WILDFIRES WITHIN WILDLAND-URBAN INTERFACE AREAS, AND, IN CONNECTION THEREWITH, CREATING A STATE GRANT PROGRAM TO PROMOTE FOREST MANAGEMENT FUELS REDUCTION PROJECTS IN SUCH AREAS		01/04/2019 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Wildfire Matters Review Committee. The bill creates a state grant program to be administered by the Colorado state forest service (forest service) to fund proactive forest management fuels reduction projects to reduce the impacts to life, property, and critical infrastructure caused by wildfires. To be eligible for a grant award, a grant recipient must be any one of a group of individual landowners as specified in the bill whose real property that is the subject of a grant application is located within a land area that is covered by a community wildfire protection plan. The bill specifies requirements pertaining to the evaluation of grant proposals. The forest service is to select the proposals that will receive funding, administer the grant program, and develop procedures by which applicants are to apply for grants. The bill imposes a monetary limit on the amount of a grant to be awarded and also requires a grant applicant to demonstrate an available amount of matching funds to be awarded a grant. The bill creates the forest management fuels reduction projects grant program cash fund in the state treasury. The bill requires the forest service to report annually to the general assembly on the number, location, and benefits of all projects for which a grant award is made.</p>				
HB19 1015 Recreation of the Colorado Water Institute	H Arndt Rural Affairs & Ag	CONCERNING THE RECREATION OF THE COLORADO WATER INSTITUTE		01/04/2019 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: The Colorado water institute was created in 1981 and automatically repealed in 2017. The bill recreates the institute.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB19 1026 Parks & Wildlife Violations of Law	H Catlin, McCluskie S Coram, Donovan Rural Affairs & Ag	CONCERNING FINES ASSESSED FOR VIOLATIONS OF LAWS ADMINISTERED BY THE DIVISION OF PARKS AND WILDLIFE.		01/04/2019 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: With regard to fines imposed for violations of laws enforced by the division of parks and wildlife in the department of natural resources (division), the bill changes the amount of certain fines and modifies the disposition of money collected from fines. Section 1 of the bill adds a nonstatutory short title. Section 2 makes legislative findings.</p> <p>Under current law, the state treasurer is required to credit half of the money collected from a fine imposed for a violation of laws enforced by the division to the general fund and half of the money to either the fund administered by the division that is relevant to the type of violation committed, if a parks and wildlife officer issued the citation, or to the local government or other state agency whose law enforcement officer issued the citation. Sections 4, 23, 31, and 35 modify the disposition of fines collected as follows:</p> <ul style="list-style-type: none"> • If a parks and wildlife officer issues a citation for a fine, the state treasurer is required to credit all of the money collected from the associated fine to the fund administered by the division that is relevant to the type of violation committed; or • If any other Colorado peace officer issues a citation for a fine, the state treasurer is required to credit half of the money collected from the associated fine to the fund administered by the division that is relevant to the type of violation committed and half of the money to the local government or other state agency whose law enforcement officer issued the citation. <p>The remaining sections change the amounts of fines for violations of laws enforced by the division as follows:</p> <ul style="list-style-type: none"> • Sections 3 and 34 increase the fine for a violation of a rule for which there is not an associated statutory penalty listed from \$50 to \$100; • Section 5 increases the following fines from \$50 to \$100: Procuring or using multiple licenses of the same type, possessing live wildlife without a license, fishing without a license, and hunting without having obtained a hunter education certificate; • Section 6 modifies the fines for unlawfully possessing fish, mollusks, crustaceans, amphibians, or reptiles so that the fine is \$35 for each such animal taken or possessed at one time; • Section 7 increases the fine from \$50 to \$150 for refusing to allow an officer of the division or other peace officer to inspect personal identification documents, licenses, firearms, records, or wildlife and increases the fine from \$50 to \$100 for failing to void a license or carcass tag as required by the parks and wildlife commission (commission) by rule; • Section 8 increases the fine for unlawfully transporting, exporting, importing, or releasing native wildlife from \$50 to \$200; • Section 9 increases the fines for failing to attempt to locate big game that has been wounded from \$100 to \$200 and for using wildlife as bait from \$100 to \$200; • Section 10 increases the fine from \$50 to \$100 for failing to wear fluorescent pink or daylight fluorescent orange garments while hunting elk, deer, pronghorn, moose, or black bear with a firearm; • Section 11 increases the fine for possessing a loaded firearm in a motor vehicle from \$50 to \$100; 				

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<ul style="list-style-type: none"> • Section 12 increases the fine for shooting from a public road from \$50 to \$100; • Section 13 increases the fine for using division property in violation of any commission rule from \$50 to \$100; • Section 14 increases the fine for knowingly luring a bear with food or edible waste from \$100 to \$200 for a first offense, \$500 to \$1,000 for a second offense, and \$1,000 to \$2,000 for a third or subsequent offense; • Section 15 authorizes the commission, by rule, to allow for the possession, importation, exportation, shipment, or transportation of an aquatic nuisance species; • Section 16 exempts from the prohibition against transferring park passes the transfer of a park pass pursuant to a commission rule regarding the manner by which a pass may be transferred; • Section 17 increases the fine from \$50 to \$100 for using or possessing certain vessels that have not been issued a number; • Section 18 increases the fine for violating certain personal watercraft equipment requirements from \$50 to \$100; • Section 19 increases the fine for violating the minimum age requirements for operating a motorboat from \$50 to \$100; • Section 20 increases the fine from \$50 to \$100 for operating a vessel: That is not properly equipped, in excess of noise restrictions, above wakeless speed, in violation of any commission rule, or, with respect to personal watercraft only, between 1/2 hour after sunset and 1/2 hour before sunrise. Section 20 also increases the fine for operating a vessel in a careless or imprudent manner from \$100 to \$200. • Section 21 increases the fine from \$100 to \$200 for operating water skis or similar devices in a careless manner or operating a vessel towing water skis or a similar device in a manner as to cause the device or person on the device to collide with or strike an object or person. Section 21 also requires a person on a stand-up paddleboard to have a readily accessible personal flotation device and increases the fine from \$50 to \$100 for failing to wear a personal flotation device on water skis or similar devices, violating commission rules regarding the safe operation of water skis or similar devices, or violating commission rules prohibiting the use of single-chambered air-inflated devices on rivers or streams under certain conditions. • Sections 22, 24 through 27, and 29 increase the fines for various snowmobile operational violations from \$50 to \$100; • Section 28 increases the fine for operating a snowmobile in a careless or imprudent manner from \$100 to \$200. Section 28 also increases the fine from \$50 to \$100 for a snowmobile owner who, while the owner's snowmobile is under the owner's control, allows another to operate the snowmobile in a careless or imprudent manner, in a manner in wanton or willful disregard for safety, or under the influence of alcohol or a controlled substance. • Section 30 increases the fine for operating an unnumbered, unregistered off-highway vehicle (OHV) from \$50 to \$100. Section 30 also increases the fine from \$35 to \$100 for operating a nonresident-owned or -operated OHV that does not have a valid license or registration from another state or has been in this state for more than 30 days but for which a permit has not been issued. • Section 32 increases the fine for operating an OHV in violation of road crossing restrictions from \$50 to \$100; • Section 33 increases the fine for operating an OHV without obtaining and displaying an off-highway use permit from \$50 to \$100; • Section 36 increases the fine for unlawful camping from \$50 to \$100 if the person is camping in an area located in a state park or state recreation area that is not designated for camping and adds a fine in an amount equal to 5 times the cost of a permit for a campsite if the person is camping at a campsite without having obtained a valid permit; • Section 37 increases the fine from \$50 to \$100, with respect to a motor vehicle or vessel on property under the control of the division, for the following activities: Operating or parking outside of designated areas, in excess of posted speed limits; parking in a manner that impedes the normal flow of traffic; leaving a motor vehicle or vessel unattended for more than 24 hours; or operating or parking a motor vehicle without having first purchased a required pass or permit; and • Section 38 adds a conforming amendment. 				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>HB19 1029</p> <p>Republican River Water Conservation District</p>	<p>H Arndt S Crowder</p> <p>Rural Affairs & Ag</p>	<p>CONCERNING THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT, AND, IN CONNECTION THEREWITH, EXPANDING THE BOUNDARIES OF THE DISTRICT AND ADJUSTING THE MEETING SCHEDULE OF THE DISTRICT'S BOARD OF DIRECTORS.</p>		<p>01/04/2019</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee The boundaries of the Republican river water conservation district are currently established by statute as certain counties and portions of counties that are within the Republican river basin. The bill expands the boundaries by including the district areas where groundwater pumping depletes the flow of the Republican river as contemplated by applicable United States supreme court case law. The composition of the district's board of directors is adjusted accordingly.</p> <p>Current law requires the Republican river water conservation district board of directors to conduct regular quarterly meetings in January, April, July, and October. The bill changes these months to February, May, August, and November.</p>				
<p>HB19 1050</p> <p>Encourage Use of Xeriscape in Common Areas</p>	<p>H Titone</p> <p>Energy & Environment</p>	<p>CONCERNING THE PROMOTION OF WATER-EFFICIENT LANDSCAPING ON PROPERTY SUBJECT TO MANAGEMENT BY LOCAL SUPERVISORY ENTITIES.</p>		<p>01/04/2019</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Section 1 of the bill augments an existing law that establishes the right of unit owners in common interest communities to use water-efficient landscaping, subject to reasonable aesthetic standards, by specifically extending the same policy to common areas under the control of the community's governing board. Sections 2 and 3 extend existing water conservation requirements, currently applicable only to certain public entities that supply water at retail and their customers, to property management districts and other special districts that manage areas of parkland and open space.</p>				