

**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**

**Wednesday, February 24, 2021
9:00 a.m. – 10:15 a.m.**

**Video: [Click here to join Zoom](#)
Phone Number: (346) 248 7799
Meeting ID: 852 4669 2513
Participant ID: 931249**

Posted and Noticed Monday, February 22, 2021

Tentative Agenda

*Please text 970-901-1388 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 consensus of the Board.

- 1.0 Call to Order - Roll Call and Verification of Quorum (9:00 a.m.)**
- 2.0 Review & Approve the Agenda (9:02 a.m.)**
- 3.0 Questions/Comments from Audience (9:03 a.m.)**
- 4.0 New Business (9:05 a.m.)**
 - 4.1 State Legislative Update & Position on Bills
 - 4.2 Proposed Change in Legislative Biweekly Special Board Meeting Dates
 - 4.3 Proposed Delivery and Timing of Board Legislative Packets
- 5.0 Old Business (9:45 a.m.)**
 - 5.1 Proposed extension of C.R.S. 37-92-305(3)(c) to Water Division 7
 - 5.2 Proposed SWCD Account Signatories (Bank of Colorado, COLOTRUST)
- 6.0 Adjournment (10:15 a.m.)**

Proposed Upcoming Meetings

Thursday, March 11, 2021	9:00 a.m.	Special Board Meeting
Thursday, March 25, 2021	9:00 a.m.	Special Board Meeting



THE SOUTHWESTERN WATER CONSERVATION DISTRICT

Developing and Conserving the Waters in the
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES
West Building – 841 East Second Avenue
DURANGO, COLORADO 81301
(970) 247-1302

MEMORANDUM

February 22, 2021

To: Southwestern Board of Directors

From: Chris Treese

RE: Colorado legislative report

Requested Action:

There are five water-related bills introduced last week on which I will request board action on Wednesday. A summary and analysis of the relevant sections of each bill follows as well as a recommended position for your consideration. Each bill is hyperlinked through the bill number; all you have to do is click on the bill number to see a text file (.pdf) of the entire bill.

Following the bills for possible action is a brief update and commentary on recent developments under the dome.

[SB21-034](#) Water Resource Financing Enterprise Act

Coram

SUMMARY: This bill creates the water resources financing enterprise. The board of the enterprise would consist of the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise will provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and raw water suppliers. "Raw water suppliers" are limited to those providing raw water for treatment and use as drinking water.

The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state. As a fee-based enterprise, new revenues collected would not be included in any TABOR calculations for state budget caps. Fees may be adjusted annually for inflation and to address "certain equity concerns."

Although clearly established as an enterprise fund, voters will be asked in November 2022 to authorize the creation of the enterprise.

ANALYSIS: Senator Coram has been exploring alternative water project financing mechanisms for several years. I previously assisted Senator Coram with a preliminary reaction to this funding mechanism a couple of years ago. The utilities I spoke with at the time were not supportive of being the fee collector, but not entirely dismissive either. While SB 034 does not directly benefit the SWCD, unless there is opposition from district water utilities, I believe Senator Coram deserves support for his continuing quest to advance Colorado water development.

RECOMMENDED POSITION: Conditional Support, predicated on local water utility support/acceptance. (Laura and I will reach out to several district drinking water providers to determine their acceptance.)

SB21-054

Hansen and Rankin, Moreno

McCluskie, Herod, Ransom

SUMMARY: SB 54 transfers from the General Fund \$13 million to three cash funds for wildfire preparedness and post-fire mitigation.

- Section 1 transfers \$6 million to the forest restoration and wildfire risk mitigation grant program cash fund.
- Section 2 transfers \$3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management will use these funds as
 - State match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and
 - To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.
- Section 3 transfers \$4 million to CWCB construction for the watershed restoration program.

ANALYSIS: Arguably, this is not a water bill per se. However, the tie between sustainable water supply and forest health is increasingly recognized. Additionally, the transferred funds to the CWCB are specifically allocated to watershed restoration to support post-fire recovery and mitigation efforts. This is a bi-partisan, JBC-sponsored money budget bill, which means it has a strong likelihood of passing.

RECOMMENDED POSITION: Support

HB21-1008 Healthy Forest Projects Financing

Arndt, Catlin

Cooke, Hansen

SUMMARY: HB 1008 provides additional options for financing forest health projects by authorizing:

- Creation of special improvement districts by a combination of local governments,
- Special assessments on property specially benefited by the improvement district, including forest health projects,
- Specifically authorizing counties, municipalities, special districts, water conservancy districts, the Colorado River District, and the Southwestern Water Conservation District to participate in and finance forest health projects; and

- A forest improvement district to use sales tax revenue for forest health projects.

The bill also extends the statutory sunset of the Colorado Water Resources Power and Development Authority to issue bonds to fund watershed protection and forest health projects from July 1, 2023, to July 1, 2033.

ANALYSIS: This is the bill you discussed in concept at the regular board meeting two weeks ago. At that time, you affirmed staff's recommendation to clarify the section (Section 11) authorizing the Southwestern to participate making clear that these are not new authorities, simply confirmation of existing district authorities. An amendment has been prepared and will be introduced today (2/22) at the House Ag. hearing.

RECOMMENDED POSITION: Amend (section 11) & then support

[HB21-1043](#) Underground Storage Study

Holtorf

Sonnenberg

SUMMARY: This bill directs the CWCB, in consultation with the state engineer, to sponsor a study of underground water storage for later recovery. The study must identify:

- Specific aquifers that are hydrologically and legally available to be used for underground storage and subsequent beneficial use;
- Sources of revenue that could be used to pay for underground storage projects;
- Planned, potential or existing underground storage projects that meet the objectives identified in the study; and
- Recommend legislative changes needed to implement underground storage projects.

The bill directs the study be submitted to the Water Resources Review Committee by August 1, 2022, including recommended legislation to implement the study's recommendations.

ANALYSIS: This bill directs a study of aquifer storage and recovery (ASR). While the bill applies statewide, ASR is likely to be limited primarily to the eastern plains.

RECOMMENDED POSITION: Monitor

[HB21-1046](#) Use of Water Rights obtained through a Mutual Ditch Corporation

Arndt and Catlin

Fields and Sonnenberg

SUMMARY: For a mutual ditch corporation, the bill creates a presumption, which may be altered by the corporation's articles of incorporation or bylaws, that the shares of stock owned in the corporation represent:

- The right to use the water rights appropriated or purchased by the corporation;
- Corresponding rights to divert and deliver the stockholder's water rights through a ditch, canal, reservoir, or other works.

The bill also authorizes these water rights be limited to a pro rata amount at times when shareholder demand exceeds available supply.

The bill clarifies that:

- When a shareholder is not using some of or all of the available water under the shareholder's rights, the right to use the water rights does not include the right to prevent other stockholders from using any portion of the corporation's water rights; and
- The statutes covering ditch and reservoir companies do not prevent a stockholder from changing the use of the stockholder's shares or change the standards for water court approval to change a water right.

ANALYSIS: This bill has been the subject of several Water Congress work sessions attended predominantly by water attorneys. It addresses legal/technical nuances of the Mutual Ditch Co. statute, which have been subject of recent and pending legal actions. No consensus is apparent at this time from the Water Congress working group.

There are numerous mutual ditch companies delivering water in the SW District.

I am relying heavily on Beth and her expertise and involvement on this bill. I suspect, however, that unless the many attorneys involved in the “stakeholder process” at Water Congress come to a genuine consensus, the bill will either die or become a directed agenda item for the Interim Water Committee this summer.

RECOMMENDED POSITION: Monitor (with regular updates regarding language developments)

Legislative Commentary & Updates:

The Colorado legislature returned to work on 2/16, the Tuesday following Presidents’ Day. More than 200 bills were introduced on the re-opening day; new bill introductions have since slowed to a trickle.

The governor and Democrat majorities in both houses say the #1 priority this year is an ambitious infrastructure/stimulus bill. Unannounced is how big, how fast the bill may move, and exactly where the money goes. Governor Polis is asking for at least \$1 billion for Colorado recovery that “builds Colorado back stronger” through “shovel-ready” infrastructure projects. Examples of infrastructure offered are repairs to the Eisenhower-Johnson Memorial Tunnels, building new wildlife migration corridors and expanding rural broadband access.

As expected, the first week of the renewed session was dominated by welcoming speeches by leaders in both houses and the governor. All addressed the challenges of COVID and pledged bi-partisan cooperation on the important issues facing the state (on which they agree).

In addition to Governor Polis’ call for \$1 billion in stimulus/infrastructure to jump-start the economy, his other significant proposals addressed taxation. He said he wants to eliminate the business personal property tax “for small business,” expand the Colorado Child Tax Credit and end Colorado’s income tax on seniors’ Social Security benefits. Unanswered was where these funds will come from and what programs on the majority’s priority list will be sacrificed. However, he did mention he wants to eliminate unspecified tax breaks for “special interest groups.”

Transportation was widely mentioned as a priority by both parties. Democrats and some business groups support a gasoline fee to fund Colorado's multibillion-dollar transportation needs. This will once again be a divisive issue and will likely quell talk of bipartisanship early.

2021 Legislative Radar

Anti-Speculation

The Anti-Speculation Work Group arose from Senate Bill 20-048 sponsored by Senators Donovan and Coram and Representatives Roberts and Catlin and signed by Governor Polis on March 11, 2021.

SB 20-048 requires the E. D. of DNR to convene a work group to explore ways to strengthen current anti-speculation laws and to report to the Water Resources Review Committee by August 15, 2021 regarding any recommended changes. The Work Group is co-chaired by Kevin Rein, State Engineer, and Scott Steinbrecher, Assistant Deputy Attorney General.

This group met for the fourth time last week. Consensus among the group seems to be limited to the importance of the problem, the complexity of the issue and the difficulties in implementing any "strengthening recommendations." Distinguishing between "predatory financial speculation" and "necessary investment" is at the core of the challenge.

Given the difficulties, I do not expect any anti-speculation legislation in this session. Staff will continue to monitor the group's progress. Adam Reeves has offered to address the board at your next regular meeting in April on this subject. Adam is an official member of the work group.

HJR21-1002, Projects' authorization for the Water & Power Development Board, passed the House Ag. Committee unanimously. No opposition is expected.

Recreational In-Channel Diversions (RICD).

There is talk in the conservation community of a bill amending the Recreational In-Channel Diversions (RICD) statute. I understand the preliminary considerations are for an inclusion of natural stream features as qualifying for the physical control structures currently required to both define the upper and lower terminus of the RICD and to "capture and control" the stream along the recreation course.

I will attend a webinar on this subject sponsored by the conservation community after Wednesday's meeting.

Basin of Origin protection.

Representative Donald Valdez, representing parts of southeastern Colorado, the San Luis Valley and Mineral County in the SWCD, is again considering legislation in response to recent proposals to export water from the Valley for municipal use in Divisions 1 and 2. Representative Valdez announced last week he is a candidate for Congressional District 3.

Clean Water Act implementation.

Following a summer stakeholder process hosted by the Colorado Water Congress, it remains unclear if the Colorado Department of Public Health and Environment (CDPHE) will pursue

legislation to establish a state Dredge and Fill Permit Program within CDPHE's Water Quality Control Division. The future of a state-run Dredge and Fill program will likely depend on the court's decision regarding a temporary stay in place on the 2020 Waters of the United States (WOTUS) rule at the federal level.



SOUTHWESTERN WATER CONSERVATION DISTRICT

2021 State Legislative Update: [February 22, 2021](#)

Below is a summary of 2021 water-related legislation under consideration by the Colorado General Assembly. These summaries generally apply to the bills as introduced.

Click on the bill number to view the most recent bill language and other information.

The Colorado Water Congress (CWC) State Affairs Committee met on February 16th and February 22nd. **Positions taken on bills since the SWCD board's last consideration of legislation are in red text for CWC and green text for SWCD.**

[SB21-034](#) **Water Resources Financing Enterprise**

SWCD Position: [Discussion.](#)

CWC Position: [Discussion.](#)

Sponsors: Senate (Coram)

Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Introduced on February 16th and Assigned to Senate Ag and Natural Resources.

Title: Concerning the creation of an enterprise that is exempt from the requirements of section 20 of article X of the state constitution to administer a fee-based water resources financing program.

Summary: This bill creates the water resources financing enterprise. The board of the enterprise would consist of the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise will provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and raw water suppliers. "Raw water suppliers" are limited to those providing raw water for treatment and use as drinking water.

The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state. As a fee-based enterprise, new revenues collected would not be included in any TABOR calculations for state budget caps. Fees may be adjusted annually for inflation and to address "certain equity concerns."

Although clearly established as an enterprise fund, voters will be asked in November 2022 to authorize the creation of the enterprise.

Comments:

SB21-054 Transfers for Wildfire Mitigation and Response

SWCD Position: Discussion.

CWC Position: Discussion.

Sponsors: Senate (Hansen/Rankin) House (McCluskie)

Committee of Reference: Senate Appropriations

Bill Status: Introduced on February 16th and assigned to Senate Appropriations consideration on February 23rd.

Title: Concerning transfers from the general fund to cash funds to be used to address wildland fires, and, in connection therewith, making an appropriation.

Summary: SB 54 transfers from the General Fund \$13 million to three cash funds for wildfire preparedness and post-fire mitigation.

- Section 1 transfers \$6 million to the forest restoration and wildfire risk mitigation grant program cash fund.
- Section 2 transfers \$3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management will use these funds as
 - State match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and
 - To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.
- Section 3 transfers \$4 million to CWCB construction for the watershed restoration program.

Comments:

HJR21-1002 Water Projects Eligibility Lists

SWCD Position: Support

CWC Position: Support

Sponsors: House (Arndt), Senate (Donovan)

Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Passed out of House Agriculture, Livestock and Water unamended on February 18th. Scheduled for the House Floor on February 22nd.

Title: Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.

Summary: See bill text for full fund eligibility lists.

Comments:

HB21-1008 **Forest Health Project Financing**

SWCD Position: Discussion
CWC Position: Discussion
Sponsors: House (Arndt/Catlin), Senate (Cooke/Hansen)
Committee of Reference: House Agriculture, Livestock & Water, House Finance

Bill Status: Introduced on February 16th and assigned to House Agriculture, Livestock & Water for committee consideration on February 22nd.

Title: Concerning increased options for financing forest health projects, and, in connection therewith, financing wildfire mitigation treatments.

Summary: HB 1008 provides additional options for financing forest health projects by authorizing:

- Creation of special improvement districts by a combination of local governments,
- Special assessments on property specially benefited by the improvement district, including forest health projects,
- Specifically authorizing counties, municipalities, special districts, water conservancy districts, the Colorado River District, and the Southwestern Water Conservation District to participate in and finance forest health projects; and
- A forest improvement district to use sales tax revenue for forest health projects.

The bill also extends the statutory sunset of the Colorado Water Resources Power and Development Authority to issue bonds to fund watershed protection and forest health projects from July 1, 2023, to July 1, 2033.

Comments:

HB21-1043 **Study Underground Water Storage Maximum Beneficial Use**

SWCD Position: Discussion
CWC Position: Discussion
Sponsors: House (Holtorf), Senate (Sonnenberg)
Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Introduced on February 16th and assigned to House Agriculture, Livestock and Water.

Title: Concerning a study of underground water storage to maximize the beneficial use of water within Colorado.

Summary: This bill directs the CWCB, in consultation with the state engineer, to sponsor a study of underground water storage for later recovery. The study must identify:

- Specific aquifers that are hydrologically and legally available to be used for underground storage and subsequent beneficial use;
- Sources of revenue that could be used to pay for underground storage projects;
- Planned, potential or existing underground storage projects that meet the objectives identified in the study; and
- Recommend legislative changes needed to implement underground storage projects.

The bill directs the study be submitted to the Water Resources Review Committee by August 1, 2022, including recommended legislation to implement the study's recommendations

HB21-1046 Water Share Right Mutual Ditch Corporation

SWCD Position: Discussion
CWC Position: Discussion
Sponsors: House (Arndt/Catlin), Senate (Fields/Sonnenberg)
Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Introduced on February 16th and assigned to House Agriculture, Livestock and Water.

Title: Concerning the use of a water right obtained through a mutual ditch corporation.

Summary: For a mutual ditch corporation, the bill creates a presumption, which may be altered by the corporation's articles of incorporation or bylaws, that the shares of stock owned in the corporation represent:

- The right to use the water rights appropriated or purchased by the corporation; and
- Corresponding rights to divert and deliver the stockholder's water rights through a ditch, canal, reservoir, or other works.

The bill also authorizes these water rights be limited to a pro rata amount at times when shareholder demand exceeds available supply.

The bill clarifies that:

- When a shareholder is not using some of or all of the available water under the shareholder's rights, the right to use the water rights does not include the right to prevent other stockholders from using any portion of the corporation's water rights; and
- The statutes covering ditch and reservoir companies do not prevent a stockholder from changing the use of the stockholder's shares or change the standards for water court approval to change a water right.

Comments:

Monitoring legislation is integral to keeping a finger on the pulse of dynamic water policy in the state. On behalf of its diverse constituents in southwestern Colorado, the Southwestern Water Conservation District (SWCD) tracks state water legislation closely, specifically through participation in the Colorado Water Congress State Affairs Committee. Beth Van Vurst, SWCD General Counsel, and Chris Treese, lobbyist, participate in the State Affairs Committee meetings weekly during the legislative session and ensure the views and priorities of southwestern Colorado are considered as the State legislature enacts new laws affecting water resources.

SWCD staff provides this written summary of water-related legislation, updated throughout the session via email to interested stakeholders and public. To be added to the list, please contact lauras@swwcd.org. We hope that you find the updates beneficial and informative.



THE SOUTHWESTERN WATER CONSERVATION DISTRICT

Developing and Conserving the Waters in the
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES
West Building – 841 East Second Avenue
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(970) 247-1302

MEMORANDUM

February 22, 2021

To: Southwestern Board of Directors

From: Chris Treese

RE: Water Rights Protections under Conservation Programs

At the February regular board meeting, I requested direction regarding Water Division 7's exclusion from an otherwise statewide statutory protection for water rights enrolled in an approved water conservation program. At the time, I understood there may be legislation considered this session to bring division 7 into the statute. However, it now appears there will not be any legislative initiative to bring division 7 into the statute this year. I anticipate representatives from TU and/or TNC will participate in the Wednesday meeting. I expect them to confirm my understanding of no legislation, at least this year.

I understand the Southwestern board has discussed this issue several times in the past including most recently last year just as COVID quarantines hit. I do not believe you have a consensus position at this time whether Water Division 7 should be included in the statutory protections described below or if it should continue to be statutorily excluded.

The topic is on your agenda for Wednesday's special meeting. As mentioned, I expect public input on the topic, but I am no longer requesting direction on this issue. The board may, of course, choose to provide direction or even adopt a position by motion on the issue if you choose. You may also choose to do so at a later date.

RECOMMENDATION: With assurance that legislation is unlikely this year, the board should delay action or even firm direction until you have a permanent General Manager on staff.

Statute:

Passed initially in 2013 as SB13-019, and later amended by HB17-1233, the relevant statute reads as follows:

(c) In determining the amount of historical consumptive use for a water right in division 1, 2, 3, 4, 5, or 6, the water judge shall not consider any decrease in use resulting from the following:

(I) The land on which the water from the water right has been historically applied is enrolled under a federal land conservation program; or

(II) The nonuse or decrease in use of the water from the water right by its owner for a maximum of five years in any consecutive ten-year period as a result of participation in:

(A) A water conservation program, including a pilot program, approved in advance by a water conservation district, water district, water authority, or water conservancy district for lands that are within the entity's jurisdictional boundaries or by a state agency with explicit statutory jurisdiction over water conservation or water rights;

(B) A water conservation program, including a pilot program, established through formal written action or ordinance by a water district, water authority, or municipality or its municipal water supplier for lands that are within the entity's jurisdictional boundaries;

(C) An approved land fallowing program as provided by law in order to conserve water or to provide water for compact compliance; or

(D) A water banking program as provided by law.

(C.R.S. 37-92-305(3)(c))

History/Background:

Similar protections have been codified in Colorado statute, since 2005. Senate Bill 05-133 (C.R.S. 37-92-103(2)) protected water rights owners who chose to participate in voluntary conservation practices, water banking or approved land fallowing activities from abandonment of their water rights. Broadly speaking, this bill provides that a water right is not abandoned if enrolled in one of the following programs:

1. Enrollment in a federal land conservation program, such as the Conservation Reserve Enhancement Program, under which landowners are compensated to fallow lands.
2. Enrollment in a "water conservation program approved by a state agency, a water conservation district, or a water conservancy district" or "through formal written action or ordinance by a municipality or its municipal water supplier."
3. Participation in a land fallowing programs to conserve water such as the Fallowing and Leasing Pilot Projects program under C.R.S. 37-60-115(8). This program was created in 2013 and has since been expanded in scope and extended through 2035.
4. Enrollment in water banking programs such as those provided under C.R.S. 37-80.5-101, et seq. In Colorado, the Arkansas River Water Bank Pilot Program was created in

2001 Two years later, the General Assembly provided that water banks could be created in other water divisions at the request of the relevant water conservancy or water conservation districts. Rules were promulgated for the original Arkansas River Water Bank but no leases of water under the program have occurred. No requests have been made in the other water divisions for rules to be promulgated in order to allow for water banks in other basins.

In 2007, the legislature passed HB07-1012, which also protects from abandonment water rights loaned to the CWCB for instream flow use pursuant to C.R.S. 37-83-105. This bill also provides that water rights loaned for instream flow are protected from diminishment of historical consumptive use (HCU) quantification due to non-use during the loan period. The following year, HB08-1280 further protected water rights used by the CWCB for instream flows from abandonment by tolling the abandonment statute for water rights during participation in “[a]ny contract or agreement with the Colorado Water Conservation Board that allows the Board to use all or a part of the water right to preserve or improve the natural environment to a reasonable degree under section 37-92-102(3).”

The protections listed above all apply statewide.

In 2013, Senator Gail Schwartz introduced SB13-013 to extend these protections for water rights owners from abandonment to cover diminishment of the historical consumptive use of their water rights in a change of water right proceeding before the Water Court.

Codified in 37-92-305(3)(c), SB13-019 requires water courts to NOT account for reductions of historical consumptive use of water rights participating or enrolled in approved conservation programs contemplated in SB05-133 and codified in C.R.S. 37-92-103(2)(a) and (b)(I) – (b)(IV). In addition, SB13-019 limited protection from loss of consumptive use for a maximum of five years in any consecutive ten-year period. SB 019 initially applied only in Water Divisions 4, 5, and 6. In 2017, Representative Jeni Arndt and Senator Larry Crowder introduced HB17-1233 which would have extended SB13-019 HCU protections statewide. It was amended after introduction to cover all water divisions except for Division 7.

To date, protection under these two complementary statutes has been granted a few times. The Colorado River Water Conservation District has approved more than a dozen conservation programs providing the abandonment and HCU protections. Most programs have been from smaller ag operations; however, the Upper Eagle Regional Water Authority had a treated water conservation program that also received approval for these protections. The Colorado Water Conservation Board (CWCB) approved a conservation plan for the Silverhawk Ranch in the San Miguel River basin within the Southwestern’s boundaries but in Water Division 4. and has approved conservation plans in connection with the System Conservation Pilot Program

Water users statewide are protected from any claim of abandonment of their water rights when enrolled in these programs. Their historic consumptive use, however, is protected from diminishment in a subsequent change of water right only in Water Divisions 1-6.