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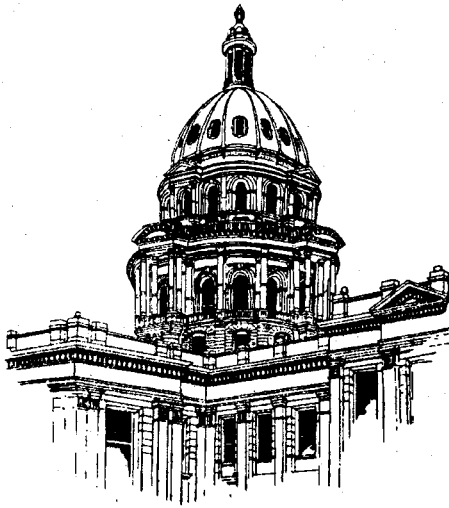
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0531 Water Resources Review Committee



Water Resources

Review Committee

Report to the
COLORADO
GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 531
November 2004

RECOMMENDATIONS FOR 2005

WATER RESOURCES REVIEW COMMITTEE

**Report to the
Colorado General Assembly**

**Research Publication No. 531
November 2004**

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LEGISLATIVE COUNCIL

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November 2004

To Members of the Sixty-fifth General Assembly:

Submitted herewith is the final report of the Water Resources Review Committee. This committee was created pursuant to Article 98 of Title 37, Colorado Revised Statutes. The purpose of the committee is to oversee the conservation, use, development, and financing of Colorado's water resources.

At its meeting on October 15, 2004, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills herein for consideration in the 2005 session was approved.

Respectfully submitted,

/s/ Representative Lola Spradley
Chairman

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http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2004/04interim.htm

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WATER RESOURCES REVIEW COMMITTEE

Members of the Committee

Representative Diane Hoppe
Chairman

Representative Dorothy Butcher

Representative Ray Rose

Representative Al White

Senator Lewis Entz
Vice Chairman

Senator Jim Dyer

Senator Jim Isgar

Senator Abel Tapia

Senator Jack Taylor

Legislative Council Staff

David Beaujon
Research Associate II

Elizabeth Burger
Senior Research Assistant

Marie Garcia
Staff Assistant

Office of Legislative Legal Services

Thomas Morris
Senior Staff Attorney

EXECUTIVE SUMMARY

Committee Charge

Pursuant to Section 37-98-102, C.R.S., the Water Resources Review Committee was created for the purposes of contributing to and monitoring the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state. The committee is authorized to review and propose legislation in furtherance of its purposes. In conducting its review, the committee is required to consult with experts in the fields of water conservation, quality, use, finance, and development. The committee is authorized to meet up to six times in 2004, including up to two times outside of the interim period, and take up to two field trips in connection with its mandate.

Committee Activities

At its four meetings, the committee received briefings on a broad range of water policy issues from government officials, private water users, and other interested persons. The committee heard testimony from state officials and water users across the state that the impact of the multi-year drought continues to be felt. For example, reservoir levels remain below normal across Colorado, despite the wetter than usual summer. The state is also preparing policies in the event the drought continues and in-state water use must be curtailed to satisfy water delivery obligations to lower Colorado River Basin states. The committee received updates on two legislatively mandated water studies that are due December 1, 2004. The Statewide Water Supply Investigation (SWSI) is a two-year study by the Colorado Water Conservation Board to identify water supply needs and alternatives for each of the state's seven river basins. Senate Bill 03-276 replaced General Fund appropriations to the Division of Water Quality with cash funds and required the division to conduct a study of water quality permit fees.

Several state water policies were reviewed by the committee including water rights for recreational activities, known as recreational in-channel diversions (RICDs), and dam safety requirements. The committee heard testimony from owners of RICDs about the benefits of such rights and concerns from others about potential impacts from RICDs on traditional water uses. Amendments to the RICD law were considered but not recommended by the committee. In response to concerns expressed by some dam owners, the committee also reviewed the cost of dam spillway and construction requirements. The committee requested the State Engineer to review these requirements and report to the committee by March 1, 2005.

The committee took two tours and visited portions of five of the state's seven major river basins to learn about local water resources and supply challenges. In June, the committee went on a three-day tour of the South Platte River Basin. In August, the committee toured for four days in southwestern Colorado including the Colorado, Lower

Gunnison, Dolores, Animas, La Plata, San Juan, and Rio Grande River Basins. It also held a meeting in Durango to hear public testimony and discuss legislative proposals.

The committee drafted three letters. A letter to Region VIII of the U.S. Environmental Protection Agency expressed opposition to its designation of a portion of the Dolores River as "impaired." Another letter requested the State Engineer to review the state's dam spillway and construction requirements to determine if such requirements impose unnecessary costs on dam owners. A third letter to Congress expressed support for the National Drought Preparedness Act (S. 1454, H.R. 2871).

Committee Recommendations

Bill A — Authorization for Certain Water Districts to Provide Park and Recreation Services in Connection with a Reservoir. Bill A authorizes a water district, or a water and sanitation district, to provide park and recreation services and improvements at a reservoir site if no other entity is currently providing these services. The bill prohibits other entities from providing services and improvements without the consent of the board of a water district or water and sanitation district once a district adopts a resolution to provide such services. A district is permitted to assess fees, rates, and charges to provide the services and improvements. The bill is assessed as having a conditional fiscal impact on local governments.

Bill B — Certain Water Project Revolving Fund Eligibility Lists. Pursuant to Senate Bill 04-238, additions and modifications to the water pollution control project eligibility list and the drinking water project eligibility list must be made by a bill enacted by the General Assembly. Bill B contains certain wastewater treatment system, storm water, nonpoint source pollution reduction, and drinking water projects as additions, modifications, or deletions to the water pollution control project eligibility list and the drinking water project eligibility list. The bill is assessed as having no fiscal impact.

STATUTORY AUTHORITY AND RESPONSIBILITIES

Section 37-98-102, C.R.S., creates the Water Resources Review Committee. The committee is composed of five members from the House of Representatives and five members from the Senate. Up to six meetings, two of which may be held during the legislative session, and two field trips are authorized to meet the purposes of the statute.

The committee is charged with contributing to and monitoring the conservation, use, development, and financing of the water resources of Colorado for the general welfare of its inhabitants and reviewing and proposing water resources legislation. The committee is to meet with experts in the field of water conservation, quality, use, finance, and development in furthering its charge.

COMMITTEE ACTIVITIES

Drought

Although conditions improved over last year, many areas of the state continue to feel the effects of the multi-year drought. A wetter than usual summer brought relief to areas of the Front Range and the South Platte River basin, however, water storage in all areas of the state remains below average. Colorado receives approximately 80 percent of its water supply from snow melt. In March 2004, snowpack levels in many areas of the state were average or slightly below average, but by April, the statewide snowpack was only 65 percent of average. As of August 1, 2004, statewide reservoir storage was at 79 percent of average, 107 percent higher than last year at the same time. Although reservoir storage is below average in all seven river basins, all basins show increased storage from the same time last year.

The committee toured the South Platte, Colorado, Lower Gunnison, Rio Grande, Dolores, Animas, La Plata, and San Juan River basins and saw some of the impacts the drought was having on farmers, ranchers, and other water users. In the San Luis Valley, the committee met with water users to discuss the declining levels in the unconfined aquifer and receive an update on the creation of a new water district to manage ground water resources. The committee also met with water users in the La Plata River Basin who also are struggling with the effects of the drought and a lack of adequate water storage facilities.

State water officials testified that a continuation of the drought may impact the ability of Colorado to satisfy its water delivery obligations to lower Colorado River Basin states, such as California and Arizona. Such a situation may require the state to curtail some water use in Colorado to ensure that sufficient water remains in the Colorado River for downstream states. State water officials are currently working to determine how such a curtailment would occur and who would be affected.

Committee letter supporting federal drought legislation. The committee drafted a letter to leadership of the congressional House and Senate Appropriations Subcommittees on Homeland Security urging the passage of the National Drought Preparedness Act. The National Drought Preparedness Act would establish the National Integrated Drought Information System, a drought monitoring and forecasting system. The legislation would also create a National Drought Council to coordinate federal drought assistance programs. The council would encourage drought preparedness planning, and as droughts emerge, would focus federal funding on the implementation of preparedness plans to minimize drought impacts. Both of these tools will help states anticipate and prepare for droughts. A copy of this letter can be found on page 41 of Appendix A.

Overview of State Water Agencies

Water policy, planning, and financing are conducted by several state agencies including the Division of Water Resources and the Colorado Water Conservation Board that are part of the Colorado Department of Natural Resources, and the Water Quality Control Division within the Colorado Department of Public Health and Environment. The committee reviewed the activities of each agency and heard testimony on a variety of topics.

Division of Water Resources' dam safety requirements. The Division of Water Resources administers water rights, monitors stream flows, regulates well drilling and construction, and regulates dam safety. The State Engineer provided updates on a broad range of topics including compliance with water delivery obligations to downstream states, regulation of wells in the South Platte and Arkansas river basin, and regulation of wells that are exempt from administration. In response to comments received from across the state, the committee also reviewed the division's dam safety program. As part of this program, the State Engineer promulgates rules concerning the safe storage level of the reservoir dams in the state and approves plans and specifications for the construction and repair of dams. The committee heard concerns from dam owners and persons seeking to build water storage projects that current dam spillway requirements may be unnecessarily stringent and that the expense of complying with the regulations may be preventing the construction or expansion of water storage facilities.

The State Engineer explained that the purpose of the dam safety program is to prevent the loss of life and to protect property and the state's water supply. The dam spillway and construction requirements are based in part on the consequences of a particular dam's failure and the flood potential for its basin. Owners of some high hazard dams in the state have been ordered by the State Engineer to expand their dam spillways to withstand a larger flood than was originally anticipated by the dam's builder. Some existing dams have been ordered to expand their spillways to withstand as much as 75 percent of the probable maximum precipitation (PMP). PMP is the greatest amount of precipitation for a given duration that is physically possible over a particular location as determined by the National Oceanic and Atmospheric Administration (NOAA). Large new high hazard dams may be required to pass as much as 100 percent of the PMP.

Committee letter to State Engineer regarding dam safety. In response to the concerns expressed by dam owners throughout the state, the committee drafted a letter to the State Engineer requesting a review of current dam spillway and construction requirements. The letter requested that the State Engineer respond to the committee's concerns by March 1, 2005. A copy of the letter may be found on page 43 of Appendix A.

CWCB water supply study. The Colorado Water Conservation Board (CWCB) is the state's primary water policy and planning agency. Its 15-member board is charged with conserving the state's waters to promote utilization and prevent floods. It also issues loans and small grants for water projects. Legislation enacted in 2003 authorized the CWCB to conduct the Statewide Water Supply Initiative (SWSI) that will be issued December 1, 2004. The study will assess water supply needs in each of the state's seven major river

basins and identify water supply options for meeting increased demand including new water storage and water conservation. The study's project coordinator provided preliminary results to the committee. For example, the study determined that the Arkansas River Basin is projected to need approximately 354,000 acre-feet (AF) for municipal and industrial (M and I) needs by 2030 and current gross demand for M and I in the basin is approximately 256,000 AF.

Recreational Uses of Water

Water rights for white water recreation. To attract kayakers, rafters, and other white water users to their community, local governments have constructed white water courses in many areas of the state. The committee heard testimony about the benefits and impacts of providing water rights for such projects. In 1992, the Colorado Supreme Court determined that Fort Collins could obtain a water right for its boat chute on the Cache La Poudre River. Other communities have also sought a water right for their white water projects including Aspen, Breckenridge, Eagle River Water and Sanitation District, Littleton, Pueblo, Steamboat Springs, and the Upper Gunnison River Water Conservancy District. In 2001, the General Assembly enacted SB 01-216 that allows local governments to obtain recreational water rights, called recreational in-channel diversions (RICDs) and requires the CWCB to review applications for such diversions and submit its findings to water court. A challenge to the Upper Gunnison River Water Conservancy District's RICD application from the CWCB is currently before the Colorado Supreme Court. The committee heard testimony about the need to amend the RICD law by limiting the types of white water projects that are eligible for RICDs and restricting such rights near Colorado's borders.

Management of recreation on reservoirs owned by water districts. Reservoirs provide some of the most heavily used recreational opportunities in the Front Range. The committee heard testimony from the Parker Water and Sanitation District that it is building a reservoir in Douglas County nearly half the size of Cherry Creek Reservoir. As a condition of its federal permit, the district is required to provide recreational opportunities. However, the district expressed concern that state law does not specifically authorize water and sanitation districts to operate recreational facilities. It also expressed concern about potential conflicts over the operation of the reservoir if a recreation district is formed that includes the reservoir within its district.

Recommendation. The committee recommends Bill A that authorizes water districts and water and sanitation districts to provide recreational services at a reservoir if no other entity is providing such services. The bill also prohibits other entities from providing services on such facilities without the consent of the board of a water district or water and sanitation district. A district is permitted to assess fees, rates, and charges to provide the services and improvements.

Water Quality Issues

Water quality project financing. The committee heard testimony from the Colorado Water Resources and Power Development Authority (CWRPDA) regarding its programs to fund drinking water and water pollution control programs. The CWRPDA is an independent public entity created by the General Assembly in 1981 to finance water supply projects and later authorized to finance water quality and drinking water projects. The CWRPDA is authorized to issue revenue bonds that are the indebtedness of the authority and do not obligate the state or any political subdivision. The CWRPDA annually develops a list of drinking water and water pollution control projects to be funded from its revolving loan funds. Project eligibility lists for the Water Pollution Control Revolving Fund are approved by the Water Quality Control Commission. The project eligibility lists for the Drinking Water Revolving Fund are approved by the State Board of Health. Both lists are subject to annual approval by the General Assembly. The committee received updates from CWRPDA concerning processes implemented by Senate Bill 04-238 which requires additions and modifications to the project eligibility lists be made by a bill enacted by the General Assembly, rather than a joint resolution.

Recommendation. The committee recommends Bill B, which contains modifications, additions, and deletions to the drinking water project eligibility list and the water pollution control project eligibility list. An additional bill that would have eliminated the requirement that the changes to the lists be made by a bill and substituted a requirement that the changes be made in a report presented to the Senate and House Agriculture and Natural Resources Committees was not recommended by the committee.

Study of water quality fees. The Water Quality Control Division is charged with enforcing state and federal water quality requirements. The General Assembly enacted Senate Bill 03-276 that increases fees for water quality permits to offset reductions in General Fund appropriations. The new fees are scheduled to end June 30, 2005. The act also requires the Water Quality Control Division to review the permit fees and submit a report to the General Assembly by December 1, 2004. The study is required to address a broad range of issues including beneficiaries of the water quality program, its financial supporters, program costs, and funding alternatives. The division identified upcoming federal requirements that will increase the division's work load and expressed concern about its ability to adequately protect water quality without additional resources. If unable to adequately protect water quality, the division explained that the state risks losing the authority to enforce clean water laws. Loss of state primacy could impact water rights, reduce permit flexibility, and limit enforcement discretion. The committee also heard testimony from water users concerned about the impact of losing state primacy.

Committee letter to EPA. Under the Federal Clean Water Act, Colorado is required to compile a list of waters that are impaired and not meeting the state's stream use classifications every two years. This list is subject to review and approval by the U.S. Environmental Protection Agency (EPA). A stream use classification is a formal designation that determines the level of water quality protection for a stream or lake. For example, a recreational use classification will have a higher level of protection than an

agricultural use classification. On July 26, 2004, the EPA added six Colorado water bodies to Colorado's list of impaired waters including the Dolores River from the base of McPhee Dam in southwestern Colorado. The committee drafted a letter to the EPA expressing opposition to adding the Dolores River to the list of impaired waters. The letter urged the federal agency to recognize the impact of the current drought on the ability of the Dolores Water Conservancy District to provide additional stream flows below McPhee Dam. It also urged the EPA to defer to the state the regulation of water quality and in-stream flows to protect the environment. A copy of the letter can be found on page 45 of Appendix A.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Concerning Authorization for Certain Water Districts to Provide Park and Recreation Services in Connection with a Reservoir

Bill A authorizes a water district, or a water and sanitation district, to provide park and recreation services and improvements at a reservoir site if no other entity is currently providing these services. The bill prohibits other entities from providing services and improvements without the consent of the board of a water district or water and sanitation district once a district adopts a resolution to provide such services. A district is permitted to assess fees, rates, and charges to provide the services and improvements. Because the bill authorizes the collection and expenditure of such revenues, the bill is assessed as having a conditional fiscal impact on local governments.

Bill B — Concerning Certain Water Project Revolving Fund Eligibility Lists

Pursuant to Senate Bill 04-238, additions and modifications to the water pollution control project eligibility list and the drinking water project eligibility list must be made by a bill enacted by the General Assembly. Bill B contains certain wastewater treatment system, stormwater, nonpoint source pollution reduction, and drinking water projects as additions, modifications, or deletions to the water pollution control project eligibility list and the drinking water project eligibility list. The bill is assessed as having no fiscal impact because it will not affect state revenues or expenditures.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303- 866-2055). For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2004/04interim.htm.

| Meeting Summaries | Topics Discussed |
|--------------------------|---|
| August 18, 2004 | Recreational in-channel diversions; regulation of private pump installers. |
| August 31, 2004 | Groundwater supplies; the Statewide Water Supply Initiative; drought; water supply challenges; dam construction requirements; recreational in-channel diversions. |
| September 9, 2004 | The Southern Delivery System; endangered species; dam construction requirements; Drinking Water and Water Pollution Control Revolving Fund projects; issues related to the Republican River; consideration of proposed legislation. |
| October 1, 2004 | Water quality; update on the implementation of SB 03-276; finalization of proposed legislation. |

| Committee Tours | Areas Visited |
|------------------------|---|
| June 16-18, 2004 | South Platte River Basin |
| August 16-19, 2004 | Colorado, Gunnison, Dolores, Animas, La Plata, Rio Grande, and San Juan River Basins. |

| Memoranda and Reports | |
|------------------------------|---|
| July 20, 2004 | Overview of the Water Resources Review Committee |
| August 25, 2004 | Exempt Well Permits and Water Supply Requirements for County Subdivisions |
| August 25, 2004 | Regulation of Private Pump Installers |

Committee Letters**Issue of Concern**

September 9, 2004

Expressing opposition to the EPA's listing of certain state waters as impaired.

October 1, 2004

Requesting a review of the dam spillway and construction requirements by March 1, 2005.

October 1, 2004

Expressing support for the National Drought Preparedness Act (S. 1454, H.R. 2871).

Bill A

SENATE SPONSORSHIP

Dyer

HOUSE SPONSORSHIP

Rose, Butcher and Hoppe

A BILL FOR AN ACT

**CONCERNING AUTHORIZATION FOR CERTAIN SPECIAL WATER DISTRICTS
TO PROVIDE PARK AND RECREATION SERVICES IN CONNECTION
WITH A RESERVOIR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Water Resources Review Committee. Allows a water district or a water and sanitation district to provide park and recreation improvements and services in connection with the construction, operation, and maintenance of a reservoir if no other entity is currently providing such improvements and services. Prohibits other entities from providing such services and improvements without the consent of the district's board once the board adopts a resolution to provide the services and improvements. Specifies the district's powers with regard to the services and improvements, and states that the provision of the services and improvements is not a material modification of the district's service plan.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 32-1-1006, Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW SUBSECTION to read:

32-1-1006. Sanitation, water and sanitation, or water districts - additional powers - special provisions. (8) (a) A WATER DISTRICT OR A WATER AND SANITATION DISTRICT MAY PROVIDE PARK AND RECREATION IMPROVEMENTS AND SERVICES IN CONNECTION WITH THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF A WATER RESERVOIR AND ADJACENT LAND IF SUCH IMPROVEMENTS AND SERVICES ARE NOT ALREADY BEING PROVIDED BY ANOTHER ENTITY WITH RESPECT TO THE RESERVOIR AND ADJACENT LAND.

(b) ONCE THE BOARD OF A WATER DISTRICT OR A WATER AND SANITATION DISTRICT ADOPTS A RESOLUTION TO PROVIDE IMPROVEMENTS AND SERVICES PURSUANT TO THIS SUBSECTION (8), NO OTHER ENTITY MAY PROVIDE PARK AND RECREATION IMPROVEMENTS AND SERVICES WITH RESPECT TO THE RESERVOIR AND ADJACENT LAND WITHOUT THE CONSENT OF THE BOARD.

(c) THE DISTRICT MAY EXERCISE ANY POWERS THAT A PARK AND RECREATION DISTRICT HAS IN CONNECTION WITH THE PROVISION OF PARK AND RECREATION IMPROVEMENTS AND SERVICES, INCLUDING IMPOSING RATES, FEES, AND CHARGES IN CONNECTION WITH THE IMPROVEMENTS AND SERVICES. THE DISTRICT MAY USE ANY DISTRICT REVENUES TO PROVIDE THE IMPROVEMENTS AND SERVICES. THE PROVISION OF IMPROVEMENTS AND SERVICES PURSUANT TO THIS SUBSECTION (8) IS NOT A MATERIAL

MODIFICATION OF THE SERVICE PLAN OF THE DISTRICT.

SECTION 2. Applicability. This act shall apply to the provision of park and recreation improvements and services occurring on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill A

Colorado Legislative Council Staff

**LOCAL
CONDITIONAL FISCAL IMPACT**

No State General Fund Impact

Drafting Number: LLS 05-0091

Date: October 26, 2004

Prime Sponsor(s): Sen. Dyer

Bill Status: Water Resources Review Committee

Rep. Rose

Fiscal Analyst: Marc Carey (303-866-4102)

TITLE CONCERNING AUTHORIZATION FOR CERTAIN SPECIAL WATER DISTRICTS TO PROVIDE PARK AND RECREATION SERVICES IN CONNECTION WITH A RESERVOIR.

| Fiscal Impact Summary | FY 2005/2006 | FY 2006/2007 |
|---|---------------------|---------------------|
| State Revenues General Fund | | |
| State Expenditures General Fund | | |
| FTE Position Change | 0.0 FTE | 0.0 FTE |
| Other State Impact: None. | | |
| Effective Date: Upon signature of the Governor. | | |
| Appropriation Summary for FY 2005/2006: | | |
| Local Government Impact: Water districts or water and sanitation districts that impose fees or charges in connection with improvements or services will see increased revenues and expenditures. | | |

Summary of Legislation

This bill allows a water district or water and sanitation district to provide park and recreation improvements and services in connection with the construction, operation and maintenance of a reservoir if no other entity is currently providing such improvements and services. The bill prohibits other entities from providing such services and improvements without the consent of the district's board once the board adopts a resolution to provide the services and improvements. Finally, the bill specifies the district's powers with regard to the services and improvements, including the ability to impose fees or charges in connection with improvements and services, and states that the provision of the services and improvements is not a material modification of the district's service plan. This bill will take effect upon signature of the governor.

Local Government Impact

Water districts or water and sanitation districts that impose fees or charges in connection with improvements or services will see increased revenues and expenditures. Since this will allow local districts to provide park and recreation services and the imposition of fees, the bill is assessed as having a conditional fiscal impact. Because of the uncertainty of local district actions, no estimate of the impact is provided at this time.

Departments Contacted

Local Affairs

Natural Resources

Public Health and Environment

Revenue

Bill B

SENATE SPONSORSHIP

Entz, Dyer, Isgar, Tapia, and Taylor

HOUSE SPONSORSHIP

Hoppe, Butcher, Rose, and White

A BILL FOR AN ACT

**CONCERNING CERTAIN WATER PROJECT REVOLVING FUND ELIGIBILITY
LISTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Water Resources Review Committee. Clarifies the definition of "water pollution control project eligibility list". Approves listed proposed wastewater treatment system, stormwater, and nonpoint source pollution reduction projects as additions, modifications, or deletions to the water pollution control project eligibility list. Approves listed proposed drinking water projects as additions or modifications to or deletions from the drinking water project eligibility list. Repeals statutory requirements for the intended use plans developed in connection with the 2 lists.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-95-103 (10.5), Colorado Revised Statutes, is amended, and the said 37-95-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

37-95-103. Definitions. As used in this article:

(10.5) "Project eligibility list" means the list of projects eligible for financial assistance from the authority through the water pollution control revolving fund or its other bonding capabilities, as adopted and from time to time modified in accordance with section 37-95-107.6(4). The list shall consist of a project or projects from the project priority list for federal funds adopted by the Colorado water quality control commission for publicly owned treatment works as defined in section 212 of the clean water act and nonpoint source management program projects pursuant to section 319 of the clean water act.

(13.5) "WATER POLLUTION CONTROL PROJECT ELIGIBILITY LIST" MEANS THE LIST OF PROJECTS ELIGIBLE FOR FINANCIAL ASSISTANCE FROM THE AUTHORITY THROUGH THE WATER POLLUTION CONTROL REVOLVING FUND OR ITS OTHER BONDING CAPABILITIES, AS ADOPTED AND FROM TIME TO TIME MODIFIED IN ACCORDANCE WITH SECTION 37-95-107.6 (4). THE LIST SHALL CONSIST OF A PROJECT OR PROJECTS FROM THE PROJECT PRIORITY LIST FOR FEDERAL FUNDS ADOPTED BY THE COLORADO WATER QUALITY CONTROL COMMISSION FOR PUBLICLY OWNED TREATMENT WORKS AS DEFINED IN SECTION 212 OF THE CLEAN WATER ACT AND NONPOINT SOURCE MANAGEMENT PROGRAM PROJECTS PURSUANT TO SECTION 319 OF THE CLEAN WATER ACT.

SECTION 2. 37-95-107.6 (3) (a), (4), and (5), Colorado Revised Statutes, are amended to read:

37-95-107.6. Creation and administration of water pollution control revolving fund. (3) (a) The authority may make and contract to make

loans to governmental agencies in accordance with and subject to the provisions of this section to finance the cost of wastewater treatment system projects ~~which~~ THAT are on the WATER POLLUTION CONTROL project eligibility list established pursuant to subsection (4) of this section and any other projects authorized under the clean water act and ~~which~~ THAT the governmental agencies may lawfully undertake or acquire under state law, including, but not limited to, applicable provisions of the "Colorado Water Quality Control Act", article 8 of title 25, C.R.S., and for which the governmental agencies are authorized by law to borrow money. The loans may be made subject to such terms and conditions as the authority shall determine to be consistent with the purposes thereof. Each loan by the authority and the terms and conditions thereof shall be subject to financial analysis by the division of local government of the department of local affairs. Such financial analysis shall include an analysis of the capacity to repay a loan and the need for financial assistance. Each loan to a local governmental agency shall be evidenced by notes, bonds, or other obligations thereof issued to the authority. In the case of each governmental agency, notes and bonds to be issued to the authority by the local governmental agency shall be authorized and issued as provided by law for the issuance of notes and bonds by the governmental agency, may be sold at private sale to the authority at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at such times and at such prices as the authority and governmental agency may agree. Each loan to a local governmental agency and the notes, bonds, or other obligations

thereby issued shall bear interest at such rate or rates per annum at or below market interest rate and shall be for such terms not to exceed twenty years after project completion as the authority and the governmental agency may agree.

(4) (a) The initial WATER POLLUTION CONTROL project eligibility list shall consist of those projects ranked one through thirty on the construction grant project priority list for federal funds adopted by the water quality control commission effective January 30, 1988.

(b) Additions or modifications to the WATER POLLUTION CONTROL project eligibility list that have been developed by the water quality control commission shall be submitted to the general assembly on or before January 15 of each year. The additions and modifications shall be in conformance with applicable provisions of the clean water act and state law. On or before April 1 of each year, the additions or modifications shall be approved by a joint resolution signed by the governor; except that the deadline for the governor's approval in 2004 shall be May 1, 2004. Effective January 1, 2005, and in succeeding years, the additions or modifications shall be approved by a bill enacted prior to April 1.

(c) No funds may be expended from the water pollution control revolving fund or bonds issued by the authority pursuant to subsection (6) of this section for any wastewater treatment system project unless the wastewater treatment system project is on the WATER POLLUTION CONTROL project eligibility list approved by the general assembly or is an emergency project in accordance with paragraph (d) of this subsection (4). Financial assistance for

a project pursuant to this section may be provided regardless of the rank of such project on the eligibility list.

(d) The Colorado water quality control commission may amend the WATER POLLUTION CONTROL project eligibility list at any time, in accordance with its regular procedures, to include wastewater treatment system projects that it determines and declares to be emergency projects needed to prevent or address threats to the public health or environment. No later than January 15 of each year, the authority shall provide to the general assembly a listing of all emergency projects for which moneys from the water pollution control revolving fund have been expended in the preceding calendar year.

(5) The division of local government in the department of local affairs, the division of administration in the department of health, and the authority shall develop an intended use plan in compliance with the clean water act. ~~The intended use plan shall include, but not be limited to, in addition to the material required by the clean water act, an enumeration of the bonds that the authority would need to issue, including the amounts thereof and the terms and conditions therefor, and a list of loans to be made to governmental agencies, including the terms and conditions thereof and the anticipated rate of interest per annum and repayment schedule therefor. A decision to proceed with the issuance of such bonds shall be entirely within the discretion of the authority.~~

SECTION 3. 37-95-107.8 (5), Colorado Revised Statutes, is amended to read:

37-95-107.8. Creation and administration of drinking water revolving fund. (5) (a) The division of local government in the department of local affairs, the division of administration in the department of public health and environment, and the authority shall develop an intended use plan that complies with the safe drinking water act. ~~The intended use plan shall include, but is not limited to:~~

~~(I) Any material that may be required by the safe drinking water act;~~

~~(II) An enumeration of the bonds that the authority would need to issue, including the amounts, terms, and conditions thereof; and~~

~~(III) A list of loans proposed to be made from the drinking water revolving fund, including the terms and conditions thereof and the anticipated rate of interest per annum and repayment schedule therefor.~~

(b) ~~A decision to proceed with the issuance of bonds under this subsection (5) shall be entirely within the discretion of the authority.~~

SECTION 4. The following proposed drinking water projects are hereby included as additions or modifications to the Drinking Water Project Eligibility List as defined in sections 37-95-103 (4.8) and 37-95-107.8, Colorado Revised Statutes, as projects eligible for financial assistance from the Drinking Water Revolving Fund:

**ADDITIONS OR MODIFICATIONS TO THE
DRINKING WATER PROJECT ELIGIBILITY LIST**

| <u>ENTITY</u> | <u>DESCRIPTION</u> |
|-------------------------------------|---|
| Akron, Town of | Water management facilities including, but not limited to, treatment plant |
| Alamosa, City of | Water management facilities including, but not limited to, treatment plant, transmission, distribution |
| Alma, Town of | Water management facilities including, but not limited to, distribution, transmission |
| Basalt, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage |
| Baseline Water District | Water management facilities including, but not limited to, distribution, transmission |
| Berthoud, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply |
| Bethune, Town of | Water management facilities including, but not limited to, distribution, transmission, storage, supply |
| Boone, Town of | Water management facilities including, but not limited to, treatment plant |
| Bristol Water & Sanitation District | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage |

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| Buffalo Creek Water District | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage |
| Cascade No. 1 Metropolitan District | Water management facilities including, but not limited to, treatment plant, transmission, distribution |
| Castle Pines Metropolitan District | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution |
| Center, Town of | Water management facilities including, but not limited to, storage |
| Central City, City of | Water management facilities including, but not limited to, treatment plant, transmission, distribution |
| Clearwater Metropolitan District | Water management facilities including, but not limited to, distribution, transmission, storage, supply |
| Clifton Water District | Water management facilities including, but not limited to, treatment plant, distribution, transmission, supply |
| Coal Creek, Town of | Water management facilities including, but not limited to, treatment plant |
| Colorado City Metropolitan District | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution |
| Columbine Lake Water District | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution |

Copper Mountain Consolidated Metropolitan District Water management facilities including, but not limited to, distribution, transmission, supply

Cortez, City of Water management facilities including, but not limited to, treatment plant

Creede, City of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

Crested Butte South Metropolitan District Water management facilities including, but not limited to, storage, treatment plant, supply, distribution, transmission, consolidation

Cripple Creek, Town of Water management facilities including, but not limited to, transmission, distribution, storage, supply

Dacono, City of Water management facilities including, but not limited to, distribution, transmission

Delta County Water management facilities including, but not limited to, treatment plant, consolidation

Dillon, Town of Water management facilities including, but not limited to, treatment plant, storage, distribution, transmission

Divide MPC Metropolitan District Water management facilities including, but not limited to, distribution, transmission, supply

Douglas County Water management facilities including, but not limited to, consolidation, storage, distribution, transmission

Durango West Metropolitan District #2 Water management facilities including, but not limited to, treatment plant, consolidation, distribution, transmission, supply

Eagle River Water and Sanitation District Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage, supply

Eaton, Town of Water management facilities including, but not limited to, treatment plant

Eastlake Water and Sanitation District Water management facilities including, but not limited to, treatment plant, consolidation, distribution, transmission, supply, storage

Eckley, Town of Water management facilities including, but not limited to, treatment plant, transmission, distribution

Empire, Town of Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution, storage

Fairplay, Town of Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution

Forest Lakes Metropolitan District Water management facilities including, but not limited to, storage, distribution, transmission, supply

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| Forest View Acres Water District | Water management facilities including, but not limited to, treatment, transmission, distribution, storage, supply |
| Fort Collins, City of | Water management facilities including, but not limited to, treatment plant, transmission, distribution |
| Fort Garland Water and Sanitation District | Water management facilities including, but not limited to, distribution, transmission, supply, meters |
| Fort Lupton, City of | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage |
| Fowler, Town of | Water management facilities including, but not limited to, treatment plant, consolidation, distribution, transmission, supply |
| Fowler, Town of / Westcamp Unincorporated Area | Water management facilities including, but not limited to, treatment plant, consolidation, distribution, transmission, supply |
| Fraser, Town of | Water management facilities including, but not limited to, treatment plant, transmission, distribution |
| Genesee Water and Sanitation District | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage |
| Georgetown, Town of | Water management facilities including, but not limited to, treatment plant, consolidation, storage, supply, distribution, transmission |

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| Glenwood Springs, City of | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply |
| Green Mountain Water & Sanitation District | Water management facilities including, but not limited to, distribution, transmission |
| Gunnison County | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution, storage |
| Haxtun, Town of | Water management facilities including, but not limited to, distribution, transmission |
| Hillrose, Town of | Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage, supply |
| Hoover Hill Water and Sanitation District | Water management facilities including, but not limited to, transmission, distribution, meters |
| Hotchkiss, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission |
| Idaho Springs, City of | Water management facilities including, but not limited to, treatment plant, distribution, transmission |
| Julesburg, Town of | Water management facilities including, but not limited to, treatment plant, supply |
| Keenesburg, Town of | Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage |

Ken Caryl West Ranch Water District Water management facilities including, but not limited to, treatment, consolidation, storage

Kit Carson, Town of Water management facilities including, but not limited to, treatment plant, consolidation, supply

Kremmling, Town of Water management facilities including, but not limited to, treatment plant, supply, storage, distribution, transmission

La Jara, Town of Water management facilities including, but not limited to, distribution, transmission, meters

La Junta, City of Water management facilities including, but not limited to, treatment plant, supply

Lake City, Town of Water management facilities including, but not limited to, distribution, transmission

Lamar, City of Water management facilities including, but not limited to, distribution, transmission

Larkspur, Town of Water management facilities including, but not limited to, treatment plant, consolidation, supply, storage, distribution, transmission

Las Animas, City of Water management facilities including, but not limited to, distribution, transmission

La Veta, Town of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

Limon, Town of Water management facilities including, but not limited to, distribution, transmission, storage

Lochbuie, Town of Water management facilities including, but not limited to, treatment plant, storage, supply

Log Lane Village, Town of Water management facilities including, but not limited to, treatment plant, consolidation, storage, distribution, transmission

Manitou Springs, City of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

Mesa Cortina Water and Sanitation District Water management facilities including, but not limited to, treatment plant, distribution, transmission, supply

Milliken, Town of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

Monte Vista, City of Water management facilities including, but not limited to, distribution, transmission, storage

Montezuma, Town of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply

Morrison Creek Metropolitan Water & Sanitation District Water management facilities including, but not limited to, treatment plant, storage, supply

Morrison, Town of Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage

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| Ophir, Town of | Water management facilities including, but not limited to, treatment plant, consolidation, storage, supply, distribution, transmission |
| Orchard City, Town of | Water management facilities including, but not limited to, treatment plant, storage, distribution, transmission, supply |
| Ordway, Town of | Water management facilities including, but not limited to, transmission, distribution, supply |
| Ovid, Town of | Water management facilities including, but not limited to, storage |
| Pagosa Area Water and Sanitation District | Water management facilities including, but not limited to, treatment plant, consolidation, storage, supply, transmission, distribution |
| Palmer Lake, Town of | Water management facilities including, but not limited to, distribution, transmission, storage |
| Parkville Water District | Water management facilities including, but not limited to, treatment plant, transmission, distribution, supply, storage |
| Perry Park Water and Sanitation District | Water management facilities including, but not limited to, supply, storage |
| Pine Drive Water District | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage |
| Platteville, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission, supply, storage |

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| Poncha Springs, Town of | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution, storage |
| Powderhorn Metropolitan District | Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage |
| Pritchett, Town of | Water management facilities including, but not limited to, storage |
| PV Water & Sanitation Metropolitan District | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution, storage, supply |
| Rangely, Town of | Water management facilities including, but not limited to, distribution, transmission, treatment plant, storage |
| Raymer, Town of | Water management facilities including, but not limited to, treatment plant |
| Red Cliff, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission |
| Resource Colorado Water & Sanitation Metropolitan District | Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution, storage, supply |
| Rico, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply |
| Rifle, City of | Water management facilities including, but not limited to, treatment plant, transmission, distribution, supply, storage |

Romeo, Town of Water management facilities including, but not limited to, treatment plant, transmission, distribution

Round Mountain Water and Sanitation District Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

Routt County / Hahn's Peak Water management facilities including, but not limited to, treatment, consolidation, supply

Roxborough Park Metropolitan District Water management facilities including, but not limited to, treatment plant, consolidation, distribution, transmission, storage

Rye, Town of Water management facilities including, but not limited to, treatment plant, storage

Saguache, Town of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

San Luis Water and Sanitation District Water management facilities including, but not limited to, treatment plant, supply, meters

Seibert, Town of Water management facilities including, but not limited to, distribution, transmission, supply

Silt, Town of Water management facilities including, but not limited to, treatment plant, consolidation, distribution, transmission, storage

Silver Plume, Town of Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution, storage, meters

South Fork Water and Sanitation District Water management facilities including, but not limited to, treatment plant, storage, consolidation, distribution, transmission

Springfield, Town of Water management facilities including, but not limited to, treatment plant, supply

Steamboat Lakes Water and Sanitation District Water management facilities including, but not limited to, supply, distribution, transmission, storage, meters

Sterling, City of Water management facilities including, but not limited to, treatment plant, supply, distribution, transmission

Stonegate Village Metropolitan District Water management facilities including, but not limited to, distribution, transmission, supply

Stratton, Town of Water management facilities including, but not limited to, treatment plant, storage

Tabernash Meadows Water & Sanitation District Water management facilities including, but not limited to, treatment plant, supply

Thunderbird Water and Sanitation District Water management facilities including, but not limited to, treatment plant, consolidation, supply, distribution, transmission

Trinidad, City of Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage

Turkey Canyon Ranch Water District Water management facilities including, but not limited to, treatment plant

Upper Eagle Regional Water Authority Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage, supply

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| Victor, City of | Water management facilities including, but not limited to, treatment, consolidation |
| Vilas, Town of | Water management facilities including, but not limited to, treatment plant |
| Walsenburg, City of | Water management facilities including, but not limited to, distribution, transmission |
| Watkins, Town of | Water management facilities including, but not limited to, supply |
| Westminster, City of | Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage |
| West Fort Collins Water District | Water management facilities including, but not limited to, transmission, distribution, storage |
| Wiggins, Town of | Water management facilities including, but not limited to, storage, supply |
| Williamsburg, Town of | Water management facilities including, but not limited to, treatment plant, distribution, transmission |
| Will-O-Wisp Metropolitan District | Water management facilities including, but not limited to, treatment plant, transmission, distribution, storage |
| Wilson Mesa Metro District | Water management facilities including, but not limited to, consolidation, storage, distribution, transmission |
| Winter Park Water and Sanitation District | Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply |

Wray, City of Water management facilities including, but not limited to, treatment plant, consolidation, transmission, distribution

SECTION 5. The following proposed drinking water projects are hereby deleted from the drinking water project eligibility list as defined in sections 37-95-103 (4.8) and 37-95-107.8, Colorado Revised Statutes, as projects eligible for financial assistance from the Colorado water resources and power development authority from the drinking water revolving fund or otherwise. Deletions due to completed projects, projects being funded by other resources, projects becoming ineligible for drinking water revolving fund assistance, name or project change, or facilities in compliance include the following:

DELETIONS FROM THE DRINKING WATER PROJECT ELIGIBILITY LIST

| <u>ENTITY</u> | <u>STATUS</u> |
|---|--------------------------------------|
| Alamosa, City of | Project change |
| Alma, Town of | Project change |
| Battlement Mesa Metropolitan District | No project planned/ nonresponsive |
| Berthoud, Town of | Project change |
| Box Elder Water and Sanitation District | No project planned/ nonresponsive |
| Buffalo Creek Water District | Project change |

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|---|--------------------------------------|
| Cheyenne Wells, Town of | No project planned/ nonresponsive |
| Colorado Mountain College Spring Valley Campus | No project planned/ nonresponsive |
| Crested Butte South Metropolitan District | Project change |
| Cripple Creek, Town of | Project change |
| Dillon, Town of | Project change |
| Dillon Valley Metropolitan District | No project planned/ nonresponsive |
| Durango West Metropolitan District #2 | Project change |
| Eads, Town of | No project planned/ nonresponsive |
| Eagle River Water and Sanitation District | Project change |
| Eastlake Water and Sanitation District | Project change |
| Empire, Town of | Project change |
| Flagler, Town of | No project planned/ nonresponsive |
| Forest Lakes Metropolitan District | Project change |
| Forest View Acres Water District | Project change |
| Fort Garland Water and Sanitation District | Project change |
| Fowler, Town of | Project change |
| Fowler, Town of / Westcamp Unincorporated Area | Project change |
| Genesee Water and Sanitation District | Project change |

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|---|--------------------------------------|
| Georgetown, Town of | Project change |
| Glenwood Springs, City of | Project change |
| Grand County Water and Sanitation District No. 1 | No project planned/ nonresponsive |
| Grand County / Moraine Park | Project change |
| Greeley, City of | No project planned/ nonresponsive |
| Grover, Town of | No project planned/ nonresponsive |
| Hillrose, Town of | Project change |
| Hoover Hill Water and Sanitation District | Project change |
| Hotchkiss, Town of | Project change |
| Idaho Springs, City of | Project change |
| Keenesburg, Town of | Project change |
| Ken Caryl West Ranch Water District | Project change |
| Kit Carson, Town of | Project change |
| Kremmling, Town of | Project change |
| La Jara, Town of | Project change |
| La Junta, City of | Project change |
| La Junta, City of / Eureka Water Co | Moved to Private Entity List |
| La Junta, City of / Homestead Improvement Assoc | Moved to Private Entity List |

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| La Junta, City of / S. Swink Water Co | Moved to Private Entity List | Rangely, Town of | Project change |
| La Junta, City of / Bent's Fort | Moved to Private Entity List | Red Cliff, Town of | Project change |
| La Veta, Town of | Project change | Rico, Town of | Project change |
| Larkspur, Town of | Project change | Rifle, City of | Project change |
| Lochbuie, Town of | Project change | Round Mountain Water and Sanitation District | Project change |
| Log Lane Village, Town of | Project change | Roxborough Park Metropolitan District | Project change |
| Mesa Cortina Water and Sanitation District | Project change | Rye, Town of | Project change |
| Montezauma, Town of | Project change | Saguache, Town of | Project change |
| Morrison, Town of | Project change | San Luis Water and Sanitation District | Project change |
| Ophir, Town of | Project change | Santa Fe Trails Ranch Metro District | No project planned/ nonresponsive |
| Orchard City, Town of | Project change | Seibert, Town of | Project change |
| Ordway, Town of | Project change | Silt, Town of | Project change |
| Otis, Town of | No project planned/ nonresponsive | Silver Plume, Town of | Project change |
| Pagosa Area Water and Sanitation District | Project change | Somerset Domestic Waterworks District | Project change |
| Palmer Lake, Town of | Project change | South Fork Water and Sanitation District | Project change |
| Parkville Water District | Project change | Steamboat Lakes Water and Sanitation District | Project change |
| Perry Park Water and Sanitation District | Project change | Sterling, City of | Project change |
| Pine Drive Water District | Project change | Thunderbird Water and Sanitation District | Project change |
| Platteville, Town of | Project change | Trinidad, City of | Project change |
| | | Victor, City of | Project change |

West Fort Collins Water District Project change
 Williamsburg, Town of Project change
 Wilson Mesa / Telluride Metro District Project change
 Winter Park Water and Sanitation District Project change

SECTION 6. The following proposed water pollution control projects are hereby included as additions or modifications to the water pollution control project eligibility list as defined in sections 37-95-103 (13.5) and 37-95-107.6, Colorado Revised Statutes, as projects eligible for financial assistance from the water pollution control revolving fund:

**ADDITIONS OR MODIFICATIONS TO THE
 WATER POLLUTION CONTROL
 PROJECT ELIGIBILITY LIST**

ENTITY **BRIEF PROJECT DESCRIPTION**

Alamosa, City of Wastewater treatment system improvements including, but not limited to, collection, interceptor, treatment plant, stormwater, nonpoint source

Alma, Town of Wastewater treatment system improvements including, but not limited to, stormwater, nonpoint source, treatment plant

Arapahoe County Waste Water Authority Wastewater treatment system improvements including, but not limited to, treatment plant, consolidation, biosolids, collection, interceptors, reuse, stormwater

Basalt, Town of Wastewater treatment system improvements including, but not limited to, stormwater, nonpoint source

Black Hawk, City of Wastewater treatment system improvements including, but not limited to, nonpoint source

Blanca, Town of Wastewater treatment system improvements including, but not limited to, collection, interceptor

Boulder County / Canyon Park Local Improvement District Wastewater treatment system improvements including, but not limited to, interconnection, collection, interceptor, treatment plant

Boulder County / El Dorado Springs Local Improvement District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, interconnection

Boulder, City of Wastewater treatment system improvements including, but not limited to, nonpoint source, treatment plant, collection, interceptor, biosolids

Breckenridge Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant

Brush, City of Wastewater treatment system improvements including, but not limited to, treatment plant

Castle Rock, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, consolidation, collection, interceptor, reuse, stormwater

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| Clearwater Metropolitan District | Wastewater treatment system improvements including, but not limited to, treatment plant, interceptor, collection |
| Clifton Sanitation District #2 | Wastewater treatment system improvements including, but not limited to, treatment plant, interconnection, collection, interceptor |
| Cokedale, Town of | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, nonpoint source |
| Colorado City Metropolitan District | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor |
| Copper Mtn. Consolidated Metropolitan District | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, biosolids |
| Custer County / Westcliffe | Wastewater treatment system improvements including, but not limited to, treatment plant, biosolids |
| Deer Trail, Town of | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor |
| Del Norte, Town of | Wastewater treatment system improvements including, but not limited to, stormwater, treatment plant |
| Denver SE Suburban Water and Sanitation District / Pinery | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, biosolids, consolidation |

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| Dillon, Town of | Wastewater treatment system improvements including, but not limited to, collection, interceptor, nonpoint source |
| Dolores, Town of | Wastewater treatment system improvements including, but not limited to, collection, interceptor, treatment plant, stormwater, nonpoint source |
| Durango, City of | Wastewater treatment system improvements including, but not limited to, biosolids, treatment plant |
| East Alamosa Water and Sanitation District | Wastewater treatment system improvements including, but not limited to, collection, interceptor |
| Eckley, Town of | Wastewater treatment system improvements including, but not limited to, treatment plant |
| Elizabeth, Town of | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor |
| Evans, City of | Wastewater treatment system improvements including, but not limited to, treatment plant, nonpoint source, stormwater, biosolids, reuse |
| Fairplay Sanitation District | Wastewater treatment system improvements including, but not limited to, treatment plant |
| Fairways Metropolitan District | Wastewater treatment system improvements including, but not limited to, treatment plant |

Federal Heights, City of Wastewater treatment system improvements including, but not limited to, collection, interceptor, stormwater

Fort Collins, City of Wastewater treatment system improvements including, but not limited to, treatment plant, biosolids, collection, interceptor, stormwater

Fort Garland Water and Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Fort Lupton, City of Wastewater treatment system improvements including, but not limited to, reuse, stormwater, treatment plant, collection, interceptor

Fountain Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, biosolids, collection, interceptor

Fremont Sanitation District / Fremont County Wastewater treatment system improvements including, but not limited to, connection, collection, interceptor

Gilpin County School District RE-1 Wastewater treatment system improvements including, but not limited to, stormwater, nonpoint source

Glenwood Springs, City of Wastewater treatment system improvements including, but not limited to, consolidation, treatment plant, biosolids, nonpoint source, collection, interceptor, stormwater

Golden, City of Wastewater treatment system improvements including, but not limited to, collection, interceptors, treatment plant, stormwater

Grand Junction, City of Wastewater treatment system improvements including, but not limited to, collection, interconnection, interceptor, treatment plant, stormwater, combine sewer overflow

Grand Lake, Town of Wastewater treatment system improvements including, but not limited to, stormwater, nonpoint source

Greeley, City of Wastewater treatment system improvements including, but not limited to, stormwater

Grover, Town of Wastewater treatment system improvements including, but not limited to, treatment plant

Haxtun, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Hermosa Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, nonpoint source

Hoover Hill Water and Sanitation District Wastewater treatment system improvements including, but not limited to, meters

Idaho Springs, City of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, stormwater, nonpoint source, biosolids

Julesburg, Town of Wastewater treatment system improvements including, but not limited to, consolidation, collection, interceptor

Keenesburg, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, reuse, collection, interceptor

Kremling Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, reuse, collection, interceptor

Lamar, City of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, nonpoint source, stormwater

Larkspur, Town of Wastewater treatment system improvements including, but not limited to, consolidation, collection, interceptor

Las Animas, City of Wastewater treatment system improvements including, but not limited to, collection, interceptor, treatment plant, nonpoint source

Lower South Platte Authority Wastewater treatment system improvements including, but not limited to, treatment plant, consolidation

Mancos, Town of Wastewater treatment system improvements including, but not limited to, collection, interceptor, treatment, stormwater, nonpoint source

Manitou Springs, City of Wastewater treatment system improvements including, but not limited to, collection, interceptor

Mead, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Meeker Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Mesa County Wastewater treatment system improvements including, but not limited to, interconnection, treatment plant, collection, interceptor

Mesa Water and Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Milliken, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, nonpoint source

Monte Vista, City of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, consolidation

Morrison, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, biosolids, collection, interceptor

Mt. Crested Butte Water and Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Naturita, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Nunn, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, interconnection, collection, interce

Pagosa Area Water and Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, reuse, nonpoint source

Paonia, Town of Wastewater treatment system improvements including, but not limited to, treatment plant

Park County Wastewater treatment system improvements including, but not limited to, collection, interceptor, nonpoint source

Platteville, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, stormwater

Pueblo, City of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, stormwater

PV Water and Sanitation Metropolitan District Wastewater treatment system improvements including, but not limited to, consolidation, treatment plant, collection, interceptor

Resource Colorado Water and Sanitation Metropolitan District Wastewater treatment system improvements including, but not limited to, consolidation, treatment plant, collection, interceptor

Rico, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, interconnection, nonpoint source

Rifle, City of Wastewater treatment system improvements including, but not limited to,

treatment plant, collection, interceptor, nonpoint source

San Juan River Village Metropolitan District Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Sedgwick, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor, stormwater, nonpoint source

Seibert, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, biosolids

Silt, Town of Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor

Silver Plume, Town of Wastewater treatment system improvements including, but not limited to, collection, interceptor

Silverthorne / Dillon Joint Sewer Authority Wastewater treatment system improvements including, but not limited to, collection, interceptor

Snyder Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant

South Englewood #1 Sanitation District Wastewater treatment system improvements including, but not limited to, collection, interceptor

St. Mary's Glacier Water and Sanitation District Wastewater treatment system improvements including, but not limited to, treatment plant

CONTROL PROJECT ELIGIBILITY LIST

| | |
|--|--|
| Thompson Crossing #1 Metropolitan District | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor |
| Upper Monument Creek Regional Waste Water Treatment Facility | Wastewater treatment system improvements including, but not limited to, treatment plant, biosolids, reuse |
| Walden, Town of | Wastewater treatment system improvements including, but not limited to, biosolids |
| Westminster, City of | Wastewater treatment system improvements including, but not limited to, nonpoint source, treatment plant, collection, interceptor, reuse |
| Will-O-Wisp Metropolitan District | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor |
| Winter Park Water and Sanitation District | Wastewater treatment system improvements including, but not limited to, treatment plant, collection, interceptor |
| Yampa, Town of | Wastewater treatment system improvements including, but not limited to, treatment plant |

| <u>ENTITY</u> | <u>STATUS</u> |
|--|------------------------------------|
| Alamosa, City of | Project change |
| Alma, Town of | Project change |
| Arapahoe County Waste Water Authority | Project change |
| Avondale Water and Sanitation District | No project planned / nonresponsive |
| Basalt, Town of | Project change |
| Boulder County / Canyon Parks | Entity name change |
| Boulder County / El Dorado Springs | Entity name change |
| Boulder, City of | Project change |
| Box Elder Water and Sanitation District | No project planned / nonresponsive |
| Castle Rock, Town of | Project change |
| Castle Rock, Town of | Project change |
| Clifton Sanitation District #2 | Project change |
| Colorado City Metropolitan District | Project change |
| Copper Mtn. Consolidated Metropolitan District | Project change |
| Custer County / San Isabel | Project change |
| Deer Trail, Town of | Project change |
| Del Norte, Town of | Project change |

SECTION 7. The following proposed wastewater treatment system projects are hereby deleted from the water pollution control project eligibility list as defined in sections 37-95-103 (13.5) and 37-95-107.6 (4), Colorado Revised Statutes, as projects eligible for financial assistance from the Colorado water resources and power development authority from the water pollution control revolving fund or otherwise:

| | |
|---|------------------------------------|
| Denver SE Suburban Water and Sanitation District / Pinery | Project change |
| Dolores, Town of | Project change |
| Donala Water and Sanitation District | No project planned / nonresponsive |
| Durango, City of | Project change |
| Eads, Town of | No project planned / nonresponsive |
| Elbert Water and Sanitation District | No project planned / nonresponsive |
| Evans, City of | Project change |
| Fleming, Town of | No project planned / nonresponsive |
| Fort Collins, City of | Project change |
| Fort Lupton, City of | Project change |
| Fowler, Town of | No project planned / nonresponsive |
| Fraser Sanitation District | No project planned / nonresponsive |
| Gilcrest, Town of | No project planned / nonresponsive |
| Gilpin County School District RE-1 | Project change |
| Glenwood Springs, City of | Project change |
| Golden, City of | Project change |
| Golden, City of | Project change |

| | |
|------------------------------------|------------------------------------|
| Grand Junction, City of | Project change |
| Grand Junction, City of | Project change |
| Grand Junction, City of | Project change |
| Grand Lake, Town of | Project change |
| Grover, Town of | Project change |
| Haxtun, Town of | Project change |
| Huerfano County / North Walsenburg | No project planned / nonresponsive |
| Idaho Springs, City of | Project change |
| Idaho Springs, Town of | Entity name change |
| Keenesburg, Town of | Project change |
| Kremling Sanitation District | Project change |
| Lafayette, City of | No project planned / nonresponsive |
| Lamar, City of | Project change |
| Lamar, City of | Project change |
| Larkspur, Town of | Project change |
| Las Animas, City of | Project change |
| Mancos, Town of | Project change |
| Marble, Town of | No project planned / nonresponsive |
| Mesa County Public Works | Entity name change |

| | |
|---|------------------------------------|
| Mesa Water and Sanitation District | Project change |
| Milliken, Town of | Project change |
| Monte Vista, City of | Project change |
| Morrison, Town of | Project change |
| Mt. Crested Butte Water and Sanitation District | Project change |
| Nunn, Town of | Project change |
| Orchard City, Town of | No project planned / nonresponsive |
| Pagosa Area Water and Sanitation District | Project change |
| Parachute, Town of | No project planned / nonresponsive |
| Platteville, Town of | Project change |
| Pueblo, City of | Project change |
| Rico, Town of | Project change |
| Rifle, City of | Project change |
| Salida, City of | No project planned / nonresponsive |
| Sedgwick, Town of | Project change |
| Seibert, Town of | Project change |
| Silt, Town of | Project change |
| Starkville, Town of | No project planned / nonresponsive |

| | |
|---|------------------------------------|
| Strasburg Sanitation and Water District | No project planned / nonresponsive |
| Summit County | No project planned / nonresponsive |
| Swink, Town of | No project planned / nonresponsive |
| Triple Creek Sanitation District | No project planned / nonresponsive |
| Triview Metro District | No project planned / nonresponsive |
| Westminster, City of | Project change |
| Westminster, City of | Project change |
| Widefield Water and Sanitation District | No project planned / nonresponsive |
| Winter Park Water and Sanitation District | Project change |

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill B

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 05-0106

Date: October 26, 2004

Prime Sponsor(s): Sen. Entz
Rep. Hoppe

Bill Status: Water Resources Review Committee
Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING CERTAIN WATER PROJECT REVOLVING FUND
ELIGIBILITY LISTS.

Summary of Assessment

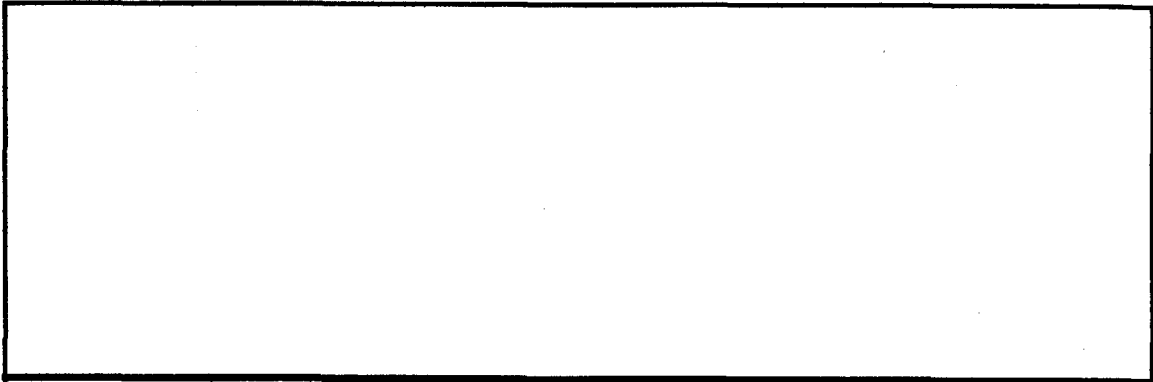
Current law requires additions or modifications to the project eligibility lists developed by the Water Quality Control Commission (to be funded by the Water Pollution Control Revolving Fund) and by the State Board of Health (to be funded by the Drinking Water Revolving Fund) to be approved, effective January 1, 2005, by a bill enacted prior to April 1 of each year. These funds are administered by the Colorado Water Resources and Power Development Authority.

This bill clarifies the definition of the project eligibility list developed by the commission to the "water pollution control project eligibility list". The bill approves listed proposed projects as additions, modifications, or deletions to the water pollution control project eligibility list and the drinking water project eligibility list. Finally, the bill repeals statutory requirements for the intended use plans developed in connection with the two lists. The bill will become effective upon signature of the Governor.

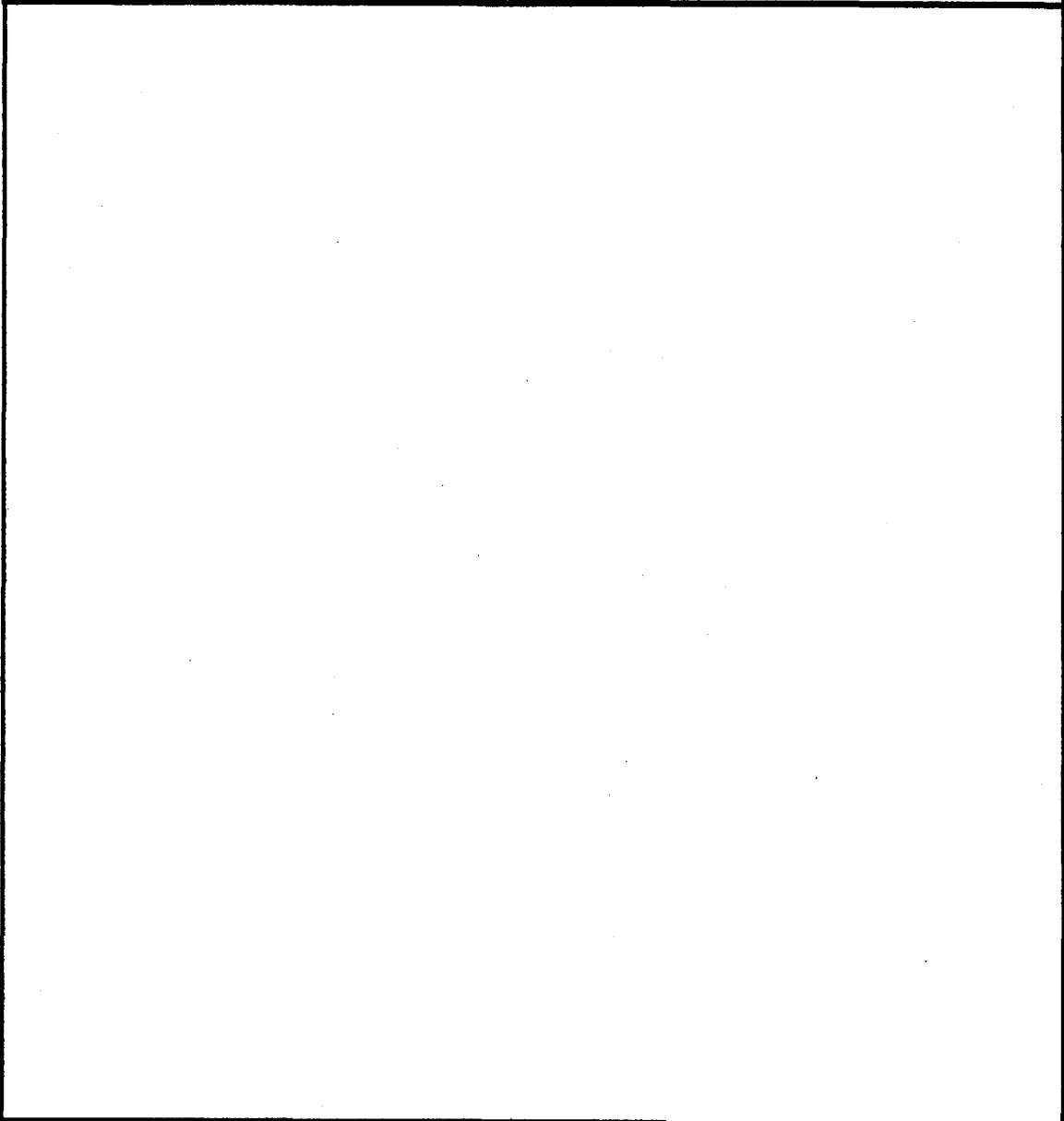
This bill will not impact state revenues or expenditures, and is therefore assessed as having no fiscal impact.

Departments Contacted

Colorado Water Resources and Power Development Authority
Public Health and Environment Local Affairs



Appendix A



COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE

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DENVER, COLORADO 80203-1784
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303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

October 1, 2004

The Honorable Thad Cochran
Chairman
Senate Appropriations
Subcommittee
on Homeland Security
SD-135 DSOB
Washington, DC 20510

The Honorable Robert C. Byrd
Ranking
Senate Appropriations
Subcommittee
on Homeland Security
SD-135 DSOB
Washington, DC 20510

The Honorable Harold Rogers
Chairman
House Appropriation Subcommittee
on Homeland Security
B-307 RHOB
Washington, DC 20515

The Honorable Martin Sabo
Ranking
House Appropriation Subcommittee
on Homeland Security
B-307 RHOB
Washington, DC 20515

Dear Chairman Cochran and Senator Byrd & Chairman Rogers and Representative Sabo:

The members of the Colorado Water Resources Review Committee urge you to consider legislation to mitigate the economic impacts of drought on states. Specifically, we ask you to include the provisions of the National Drought Preparedness Act (S. 1454, H.R. 2871) in the conference report accompanying H.R. 4567, the Homeland Security Appropriations Bill.

The Water Resources Review Committee is a legislative interim committee created by statute and charged with reviewing Colorado water issues and proposing legislation. In examining the water issues facing the state of Colorado, we have seen clearly the impact of the current five-year drought on farmers, ranchers, and communities across the state. Many areas of our state are still seeing below average reservoir storage and depleted streams and ground water resources. In short, the drought continues for the citizens of Colorado and many other parts of the West.

The economic costs of drought to private entities as well as governments are staggering. You are currently considering a \$3 billion aid package that would provide relief

The Honorable Thad Cochran
The Honorable Robert Byrd
The Honorable Harold Rogers
The Honorable Martin Sabo
October 1, 2004
Page 2

for crop and livestock losses. In 2002, Congress passed a similar \$3.1 billion aid package. While appreciated, this emergency spending does not address other significant impacts of drought such as wildfires and the loss of low-cost power from hydroelectric dams. Billions of dollars are spent every year to address the problems caused by drought. However, there is no national policy to proactively plan for and mitigate the impacts of drought.

The National Drought Preparedness Act would establish a National Integrated Drought Information System (NIDIS), a vastly improved drought monitoring and forecasting system. Tools like the NIDIS can alert states to potential drought conditions thereby allowing water users to better anticipate and plan for drought.

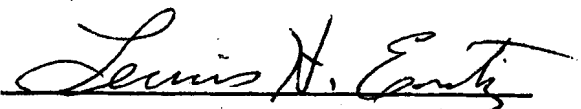
The legislation would also create a National Drought Council to coordinate and integrate federal drought assistance programs. The Council would encourage drought preparedness planning, and as droughts emerge, would focus federal funding on the implementation of preparedness plans to minimize the drought's impacts.

The Water Resources Review Committee believes that the enactment of the Drought Preparedness Act will help Colorado and other states to better mitigate the costly effects of drought. We urge you to act on this very crucial bill. Thank you for your consideration of this request.

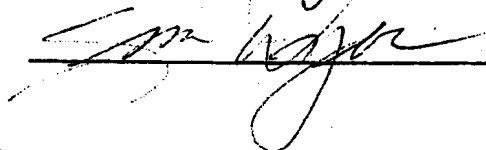
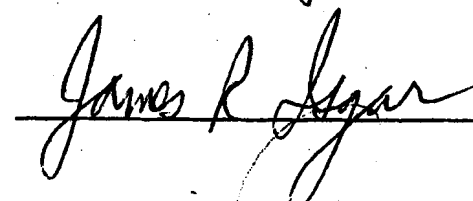
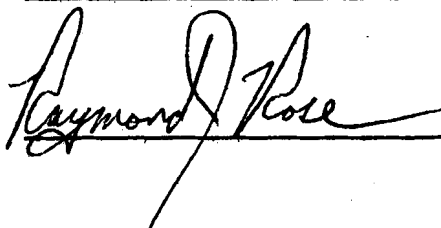
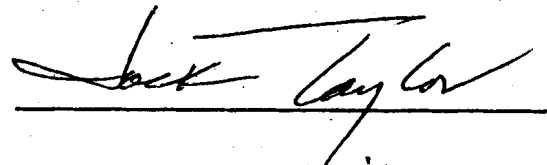
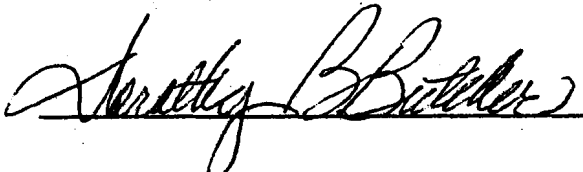
Sincerely,



Representative Diane Hoppe, Chairman,
Water Resources Review Committee



Senator Lewis H. Entz, Vice-chairman,
Water Resources Review Committee



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October 1, 2004

Mr. Hal Simpson, State Engineer
Division of Water Resources
Colorado Department of Natural Resources
Centennial Building, 8th Floor
1313 Sherman St.
Denver, Colorado 80203

Dear Mr. Simpson:

The Water Resources Review Committee is writing to thank you for your August 31st briefing on the Division of Water Resources' dam construction and spillway requirements, and to express the committee's concerns about these policies. Specifically, we are concerned that the requirements may impose unnecessary costs on some water users and prevent or severely limit valuable water storage in Colorado. This letter identifies several issues brought to our attention during the committee's tours and at public meetings. The Water Resources Review Committee urges you to review your dam spillway and construction policies to ensure that water storage in Colorado remains safe and affordable.

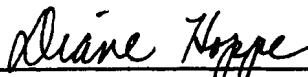
As you know, the Division of Water Resources is requiring some large dams to pass 75 percent of the runoff from the probable maximum precipitation (PMP) as determined by the National Oceanic and Atmospheric Administration's hydro meteorological report. Complying with this order will be particularly burdensome to farmers and other rural water users. For example, a group of farmers in the Lower South Platte River Basin may need to spend as much as \$1 million to expand the spillway on their dam. Spillway construction requirements are also adding to the water supply challenges affecting the La Plata River Basin. As you know, users in this basin are struggling to find alternative water supplies after being excluded from the federal Animas - La Plata Project. Unfortunately, the basin has a very limited natural water supply and few water storage options. Preliminary studies indicate that two of the basin's preferred storage options may not be affordable due to dam spillway construction costs. The committee has also learned that at least three water storage projects in the Upper Gunnison River Basin may not be built due in large part to dam spillway construction costs.

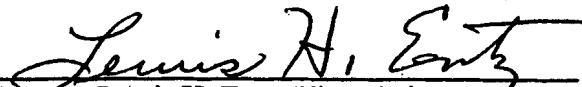
The Water Resources Review Committee recognizes the importance of Colorado's dam safety program. However, the committee is concerned that some dam spillway construction requirements

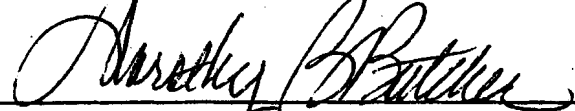
may impose substantial costs without significantly increasing safety. We urge you to review your dam spillway and construction requirements to ensure that public safety is protected without imposing unnecessary financial burdens on dam owners. We also urge you to work cooperatively with affected dam owners to identify cost effective methods for complying with necessary dam spillway and construction requirements.

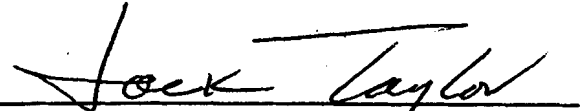
The Water Resources Review Committee requests your comments by March 1, 2005, regarding this issue and any recommendations you may have to help ensure that water storage remains safe and affordable in Colorado.


Sincerely,



Representative Diane Hoppe, Chairman
Water Resources Review Committee

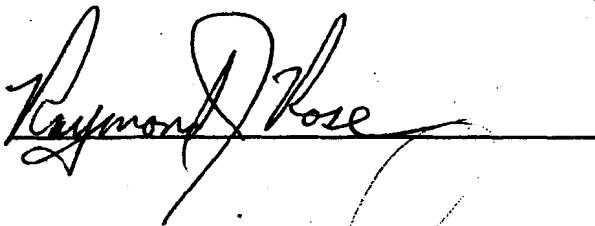

Senator Lewis H. Entz, Vice-chairman, Water
Resources Review Committee

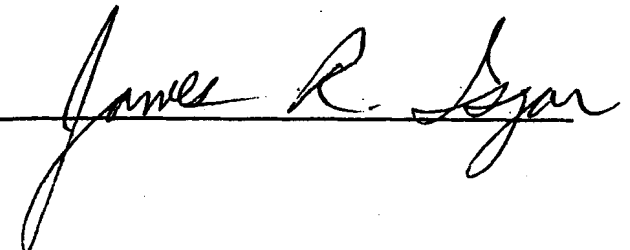


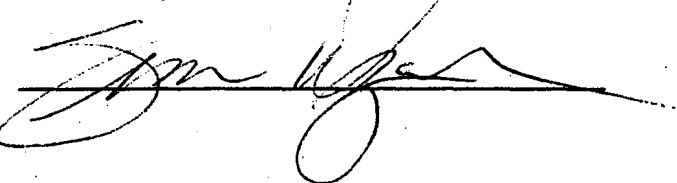












- c: Jim Yahn, Manager, North Sterling Irrigation District
- Karen Shirley, Manager, Upper Gunnison River Water Conservancy District
- Brice Lee, President, La Plata Water Conservancy District
- Rod Kuharich, Director, Colorado Water Conservation Board
- Don Chapman, Riverside Irrigation District

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Rep. Lois Tochtrop
Rep. Val Vigil
Rep. Al White

September 9, 2004

Ms. Kathryn Hernandez
TMDL Team (8EPR-EP)
U.S. Environmental Protection Agency
Region VIII
99918th Street, Suite 300
Denver, Colorado 80202-2466

Dear Ms. Hernandez:

The members of the Water Resources Review Committee are writing to express our concerns about Colorado's 2004 Clean Water Act 303 (d) List of the Dolores River Segment COSJDO04. We urge the Environmental Protection Agency (EPA) to retract its listing and defer to the Colorado Water Quality Control Commission's conclusion on this issue. The Water Resources Review Committee is a legislative interim committee created by statute and charged with reviewing water issues and proposing legislation.

As you are aware, under the Federal Clean Water Act's Section 303(d), states are to compile a list every two years of water bodies that are not attaining state numeric water quality standards or are otherwise "impaired" and not meeting the state adopted stream use classifications. Such list is subject to EPA review, approval, and amendment. EPA recently approved the Colorado Water Quality Control Commission's (Commission) 2004 list of such waters. However, the EPA disapproved six water bodies not added to the list after extensive public hearing and analysis by the Commission. The EPA has added those six to the list, but it is providing the public opportunity to comment on its decision to add them. Among the six is the Dolores River from the base of McPhee Dam, known as Dolores River segment 4. This is our segment of particular concern.

Segment 4 is listed for nonattainment of sediment, temperature and nutrients because it "is not fully meeting its aquatic life use." The EPA states in its July 26, 2004 letter to the Commission, the rationale for listing Segment 4:

"The quality of aquatic life in the Dolores River below McPhee Reservoir is dependent upon several factors, including the amount of flow released from the reservoir. The amount of flow affects the physical habitat and water quality in the River, thus having an effect on the fisheries. Biological data indicate that aquatic life use... is impaired, including during non-

Ms. Kathryn Hernandez

September 9, 2004

Page 2

drought in-stream flow conditions. This is based on a significant drop in the trout populations."

The EPA relies upon a Bureau of Reclamation proposed action in 1996 to expand the McPhee storage pool to 36,500 acre-feet. This amount was recommended by Trout Unlimited and several resource managers as desirable to support the expected aquatic life use. The Bureau of Reclamation's goal is dependent upon its purchase of 7,200 AF, which has not occurred. There is no such firm agreement to provide 36,500 AF; it is a matter of discussion. The current firm agreement by the Dolores Water Conservancy District (District) and U.S. Bureau of Reclamation provides a storage pool of 29,300 acre-feet for aquatic life use. This storage pool is managed by a biological committee seeking to balance the needs of the fishery with down stream water rights and the needs of the agricultural irrigators paying for the construction of the reservoir. During dry years shortages in yield are shared, so the 29,300 pool can be less in dry years. This 36,500 AF benchmark is only a goal; it is not an adopted state standard for an in-stream flow to protect the trout. No state rulemaking process by the Commission or the Colorado Water Conservation Board (Board) has resulted in any adoption of such a standard. No public process has been conducted to define an "expected condition." We believe no "expected condition" concerning instream flows can be defined in Colorado except in accordance with Colorado law.

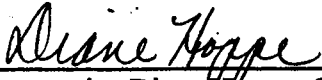
The Water Resources Review Committee objects to the EPA's use of the "303(d) "listing" process to circumvent both the Board's powers to appropriate instream flows for fish protection and the Commission's responsibility to define on a segment by segment basis the elements constituting attainment of an aquatic life use, such as temperature, sediment, and nutrients while seeking to accommodate limited stream flows. The Commission must determine the "expected condition" when stream flows are an issue.

The Water Resources Review Committee objects to use of the Bureau of Reclamation's definition of an "expected condition" despite the Commission's conclusion that no "expected condition" could yet be determined; and for EPA to do so while there is no federal regulation defining how an "expected condition" is determined. The Commission's in depth consideration of this segment must be given great deference by EPA, particularly because of the implications to the exercise of water rights.

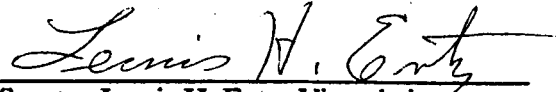
By the Clean Water Act Section 101(g) "(I)t is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act... Federal agencies shall cooperate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources." We are very concerned that EPA and others will use this listing process to somehow require more flows—regardless of the length of the drought--- for the benefit of a fishery that was dry before the dam was constructed. Again, we urge EPA to retract its listing and defer to the Commission's conclusions.

Ms. Kathryn Hernandez
September 9, 2004
Page 3

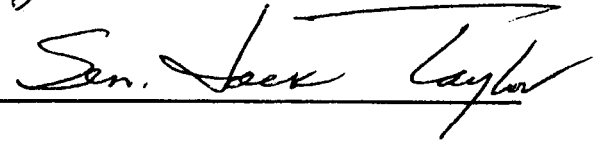
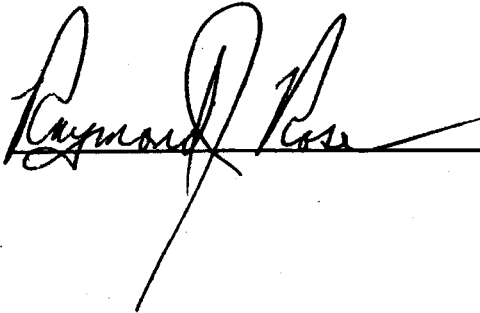
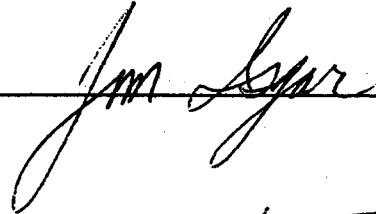
Sincerely,



Representative Diane Hoppe, Chairman,
Water Resources Review Committee



Senator Lewis H. Entz, Vice-chairman,
Water Resources Review Committee



c: Paul Frohardt, Water Quality Control Commission
Philip Saletta, Dolores Water Conservancy District