

CHAPTER 5

WATER AND IRRIGATION

SENATE BILL 15-010

BY SENATOR(S) Hodge, Jones, Roberts, Baumgardner, Cooke, Crowder, Grantham, Johnston, Martinez Humenik, Merrifield, Scott, Sonnenberg, Woods;
also REPRESENTATIVE(S) Mitsch Bush, Arndt, Becker K., Fields, Ginal, Pabon, Priola, Salazar.

AN ACT**CONCERNING AUGMENTATION REQUIREMENTS FOR WELLS WITHDRAWING WATER FROM THE DAWSON AQUIFER.**

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

SECTION 1. In Colorado Revised Statutes, 37-90-137, **amend** (9) (c.5); and **repeal** (9) (c) as follows:

37-90-137. Permits to construct wells outside designated basins - fees - permit no groundwater right - evidence - time limitation - well permits - rules.
~~(9) (c) (f) As to wells that will be completed in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers and will withdraw groundwater that is not nontributary groundwater, as defined in section 37-90-103 (10.7), judicial approval of plans for augmentation shall be required prior to the use of such groundwater. As to such wells completed in the Dawson aquifer, decrees approving such plans for augmentation shall provide for the replacement of actual stream depletion to the extent necessary to prevent any injurious effect, based upon actual aquifer conditions in existence at the time of such decree. As to such wells completed in the Denver, Arapahoe, or Laramie-Fox Hills aquifers more than one mile from any point of contact between any natural stream including its alluvium on which water rights would be injuriously affected by any stream depletion, and any such aquifer, such decrees shall provide for the replacement to the affected stream system or systems of a total amount of water equal to four percent of the amount of water withdrawn on an annual basis. As to such wells completed in such aquifers at points closer than one mile to any such contact, the amount of such replacement shall be determined using the assumption that the hydrostatic pressure level in each such aquifer has been lowered at least to the top of that aquifer throughout that aquifer. Such decrees may also require the continuation of replacement after withdrawal~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~ceases if necessary to compensate for injurious stream depletions caused by prior withdrawals from such wells and shall meet all other statutory criteria for such plans.~~

~~(H) This paragraph (c) is not in effect until July 1, 2015, and until then paragraph (c.5) of this subsection (9) applies.~~

(c.5) (I) (A) As to wells that will be completed in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers and will withdraw groundwater that is not nontributary groundwater, ~~as defined in section 37-90-103 (10.7)~~, judicial approval of plans for augmentation ~~shall be~~ is required prior to the use of ~~such~~ THE groundwater.

(B) As to such wells completed in the Dawson aquifer, decrees approving ~~such~~ plans for augmentation ~~shall~~ MUST provide for the replacement of actual out-of-priority depletions to the stream caused by withdrawals from ~~such~~ THE wells and ~~shall~~ MUST meet all other statutory criteria for ~~such~~ THE plans.

(C) As to such wells completed in the Denver, Arapahoe, or Laramie-Fox Hills aquifers more than one mile from any point of contact between any natural stream including its alluvium on which water rights would be injuriously affected by any stream depletion, and any such aquifer, ~~such~~ THE decrees ~~shall~~ MUST provide for the replacement to the affected stream system or systems of a total amount of water equal to four percent of the amount of water withdrawn on an annual basis. As to such wells completed in such aquifers at points closer than one mile to any such contact, the amount of ~~such~~ THE replacement ~~shall be~~ is determined using the assumption that the hydrostatic pressure level in each such aquifer has been lowered at least to the top of that aquifer throughout that aquifer. ~~Such~~ THE decrees ~~shall~~ MAY also require the CONTINUATION OF replacement ~~of actual out-of-priority depletions of the stream~~ after withdrawal ceases IF NECESSARY to compensate for INJURIOUS stream depletions caused by prior withdrawals from ~~such~~ THE wells and ~~shall~~ MUST meet all other statutory criteria for such plans.

~~(II) This paragraph (c.5) is repealed, effective July 1, 2015.~~

SECTION 2. 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.

Approved: March 13, 2015