

## **Water Resources Review Committee**

### **Members of the Committee**

Senator Jerry Sonnenberg, Chair  
Representative Jeni James Arndt, Vice-Chair

Senator Randy Baumgardner	Representative Daneya Esgar
Senator Kerry Donovan	Representative Diane Mitsch Bush
Senator Don Coram	Representative Lori Saine
Senator Matt Jones	Representative Yeulin Willett

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***November 2017***



# Water Resources Review Committee Summary Report

## **Committee Charge**

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The Water Resources Review Committee (WRRC) was created to contribute to and monitor the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state (Section 37-98-102, C.R.S.). It is also required to review statewide planning for water resources. The committee is authorized to review and propose legislation to further its purpose. In conducting its review, the committee is required to consult with experts in the field of water conservation, quality, use, finance, and development. The committee was authorized to meet eight times in 2017 and to take two field trips.

## **Committee Activities**

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**Regular meetings.** During the 2017 interim, the committee held eight meetings and took two field trips. The committee met with a broad range of water users and government officials, including local water providers, state water rights administrators, water quality regulators, state water planners, water project developers, and concerned citizens. The committee received briefings on major water issues affecting the state on topics including: planning for future water needs; funding needs for state water agencies and water projects; regulation of groundwater use; implementation of new water laws; implementation of the Colorado Water Plan; and other issues.

**Field trips.** In June, the committee made a two-day field trip in the San Miguel and Dolores River Basins, where it visited water diversion and storage facilities, agricultural operations, restoration projects, and ski operations. This tour was organized by the Colorado Foundation for Water Education. In August, the committee attended the Colorado Water Congress summer conference in Steamboat Springs, where it held a public meeting and attended presentations about water infrastructure financing, water planning, ongoing water supply studies, and other water management issues.

**Water use for sand and gravel mines.** Gravel mines can expose groundwater to evaporation. Such water loss may impact other water rights. Under current law, operators of sand and gravel open mines that expose groundwater to the atmosphere are required to obtain a well permit and take certain actions to mitigate their impact on other water users. Depending upon where the mine is located, operators must obtain either:

- a replacement plan approved by the Colorado Ground Water Commission for designated groundwater;
- a plan for augmentation approved by the water court; or
- a substitute water supply plan approved by the State Engineer for tributary groundwater.

The Division of Water Resources in the DNR approves well permits and substitute water supply plans. The committee recommends Bill A, which allows the designated groundwater replacement plan, or the substitute water supply plan and the well permit, to authorize uses of water incidental to open mining for sand and gravel, including the mitigation of impacts from mining and dewatering, among other uses.

**Funding for aquatic nuisance species control.** Zebra and quagga mussels are invasive aquatic nuisance species (ANS) that pose a significant threat to aquatic wildlife and water quality in Colorado. Also, due to their hard shell and ability to rapidly reproduce, these species are capable of clogging water facilities and impairing the operation of dams, water treatment facilities, and power plants. The zebra mussel has spread to 33 states including Colorado, Kansas, Nebraska, and Utah. The Aquatic Nuisance Species Program was established in the Division of Parks and Wildlife in the Department of Natural Resources in 2008 to prevent, control, contain, monitor, and eradicate zebra mussels and other aquatic nuisance species from state waters. The program coordinates a network of state, federal, local, and private watercraft inspection and decontamination stations and was originally funded with Tier II severance tax funding. The committee recommends Bill B, which funds the ANS Program through the creation of an ANS stamp to be purchased by boaters beginning January 1, 2019.

**Water reuse.** Water reuse is allowed in Colorado for reclaimed domestic wastewater and for graywater. Reclaimed domestic wastewater is wastewater that has received treatment for subsequent reuses other than drinking. The Colorado Water Quality Control Act authorized the Water Quality Control Commission (WQCC) to promulgate control regulations to specify requirements, prohibitions, standards, and concentration limitations on the reuse of reclaimed domestic wastewater that will protect public health and encourage reuse. Regulation 84, also known as the Reclaimed Water Control Regulation, was adopted by the WQCC in October 2000, and was amended in 2004, 2005, 2007, and 2013. Regulation 84 establishes treatment requirements for the use of reclaimed wastewater for irrigation, fire protection, industrial uses, and certain other commercial uses.

Graywater is the portion of wastewater that, before being treated or combined with other wastewater, is collected from fixtures within a residential, commercial, industrial building or institutional facilities for additional use. Regulation 86, adopted in 2015, allows graywater use for subsurface irrigation and indoor flushing of toilets and urinals. To allow graywater use, local jurisdictions must adopt an ordinance or resolution and implement a graywater control program. To date, only the City and County of Denver has adopted an ordinance for graywater use.

The committee recommends Bill C, which codifies in statute rules promulgated by the WQCC related to the allowable uses of reclaimed domestic wastewater and expands the allowable uses to include marijuana cultivation. The committee also recommends Bill D, which expands the allowable uses to include the irrigation of industrial hemp.

**Colorado Water Resources and Power Development Authority (authority).** The authority — created by the General Assembly in 1981, as a political subdivision of the state — is governed by a nine-member board of directors appointed by the Governor. It provides low-cost financing to local governments and private operators of public water systems in Colorado, mainly for drinking water and wastewater infrastructure. Under current law, loans made by the authority for public wastewater and drinking water projects are limited to terms not to exceed 20 years after the completion of the water project. The Committee recommends Bill E which removes the 20-year limitation on loans made by the authority from the Water Pollution Control Revolving Fund in compliance with the federal Clean Water Act, and from the Drinking Water Revolving Fund in compliance with the federal Safe Drinking Water Act. Both federal acts allow for loan terms up to the lesser of 30 years or the projected useful life of the project.

## **Committee Recommendations**

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As a result of committee discussion, the committee recommends the following five bills for consideration in the 2018 legislative session.

**Bill A — Authorize Water Use Incidental Sand and Gravel Mines.** Bill A specifies that a replacement plan for sand and gravel mines in designated groundwater basins or the plan of substitute supply and the permit may authorize uses of water incidental to open mining for sand and gravel, including specifically the mitigation of impacts from mining and dewatering.

**Bill B — Mussel-free Colorado Act.** Bill B creates new financing mechanisms for the Aquatic Nuisance Species Program in Colorado Parks and Wildlife (CPW) in the Department of Natural Resources, including the creation of a \$25 ANS stamp for Colorado resident boaters and a \$50 ANS stamp to be purchased by nonresident boaters who have their boats in Colorado waters for more than 60 consecutive days. Boaters must purchase an ANS stamp beginning January 1, 2019. Funding also includes new and increasing penalties for violating ANS laws and the authorization of CPW to seek reimbursement for the storage and decontamination of a conveyance that was impounded and quarantined due to the suspected presence of an ANS. The bill combines the balances of two existing ANS cash funds into the Aquatic Nuisance Species Fund.

**Bill C — Reclaimed Water Use for Marijuana Cultivation.** Bill C codifies in statute rules promulgated by the WQCC related to the allowable uses of reclaimed domestic wastewater and expands allowable uses to include marijuana cultivation. In addition, the bill defines three categories of water quality standards. The WQCC is required to promulgate new rules related to reclaimed wastewater no later than December 31, 2019. The WQCC is also authorized to create new categories of water quality standards; recategorize any of the allowable uses to a less stringent category; and authorize additional uses.

**Bill D — Reclaimed Water Use on Industrial Hemp.** Bill D codifies in statute rules promulgated by the WQCC related to the allowable uses of reclaimed domestic wastewater and expands allowable uses to include the irrigation of industrial hemp. In addition, the bill defines three categories of water quality standards. The WQCC is required to promulgate new rules related to reclaimed wastewater no later than December 31, 2019. The WQCC is also authorized to create new categories of water quality standards; recategorize any of the allowable uses to a less stringent category; and authorize additional uses.

**Bill E — Expanded Duration for CWRPDA Revolving Loans.** Bill E removes the 20-year limitation on public water pollution control and drinking water project loans issued by the Colorado Water Resources and Power Development Authority and authorizes the authority to make loans in compliance with the Clean Water Act and the Safe Water Drinking Act.