



**Report to the  
Colorado General Assembly**

**Water Resources  
Review Committee**

*Prepared by*

*The Colorado Legislative Council  
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December 2017*

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# **Water Resources Review Committee**

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***December 2017***

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To Members of the Seventieth 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 this committee is to oversee the conservation, use, development, and financing of Colorado's water resources.

At its meeting on November 15, 2017, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2018 session was approved.

Sincerely,

/s/ Senator Kevin J. Grantham  
Chairman

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***This report is also available on line at:***

*<https://leg.colorado.gov/committees/water-resources-review-committee/2017-regular-session>*

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## Committee Charge

The Water Resources Review Committee (WRRRC) 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.

## Committee Activities

**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 attended 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.

## Aquatic Nuisance Species

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**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. 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 ANS program was established in Colorado Parks and Wildlife (CPW) within the Department of Natural Resources (DNR) in 2008 to prevent, control, contain, monitor, and eradicate zebra mussels and other aquatic nuisance species from state waters. Standardized watercraft inspection and decontamination protocols have been implemented at a variety of inspection stations throughout the state to provide opportunities for boaters to comply with the mandatory inspection regulations of the ANS program. Inspection and decontamination locations include: infested lakes and reservoirs; state offices convenient for entry into the state; private industry locations, such as marine dealers; high-risk noninfested waters; and mobile watercraft inspection units. CPW coordinates the network of inspection and decontamination stations, which are operated by CPW, the National Park Service, Larimer County, various municipalities, and private entities. CPW provides site-specific planning; training and certification; law enforcement support; educational materials; and cost-sharing opportunities.

In August 2017, as a part of the monitoring process of the ANS program, specialists within the U.S. Bureau of Reclamation confirmed the presence of quagga mussel larvae in Green Mountain Reservoir. However, Colorado has largely prevented the introduction of the species through watercraft inspection and decontamination, as well as monitoring, education, and enforcement actions.

Representatives from CPW and DNR testified regarding the structure of the ANS program and provided information about the current funding mechanism of the program. The ANS program was originally funded through a combination of moneys from the Wildlife Cash Fund and the Operational Account of the Severance Tax Fund. However, due to reduced severance tax distributions, the ANS program is no longer receiving the full appropriation as authorized in the ANS act. CPW is currently using agency funds and federal and local grant funding to maintain the ANS program's operations. Representatives from water providers and the Northern Colorado Water Conservancy District provided the committee with testimony regarding the importance of the program to water infrastructure and potential costs if water supplies become infected by ANS.

**Committee recommendations.** The committee recommended Bill B, which funds the ANS program through the creation of an ANS stamp to be purchased by boaters beginning January 1, 2019.

## **State Financing for Water Projects**

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**Funding for water supply projects.** The committee received a briefing from the DNR budget director on state funding for water supply projects and the reason for recent declines in state spending for such projects. State funding for water projects depends on severance tax revenue and federal mineral lease revenue that are collected on oil and gas, and other types of mineral development. Due to recent declines in oil and gas prices and reduced mineral production, funding for water projects, and other programs that depend on these revenue sources, has declined in recent years.

**Colorado Water Resources and Power Development Authority.** The Colorado Water Resources and Power Development Authority (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 waste water and drinking water projects are limited to terms not to exceed 20 years after the completion of the water project. The committee received a briefing from representatives of the authority regarding a proposed change to the current law governing loans made by the authority.

**Committee recommendations.** The committee recommended 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 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.

## Regulation of Water Quality

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**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 describe 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 residential, commercial, or industrial buildings 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.

The committee heard from multiple organizations working on water reuse technologies in Colorado, including direct potable reuse, nonpotable reuse, graywater reuse, and the reuse-energy nexus. The committee also heard from water providers, higher education research institutions, and a nonprofit organization about their work studying potential new uses for reclaimed wastewater.

**Adoption of more stringent state water quality regulations.** State law allows the WQCC to also adopt rules more stringent than federal requirements if it finds at a public hearing, based on sound scientific or technical evidence in the record, that more stringent state rules are necessary to protect the public health, beneficial use of water, or the environment of the state. The committee requested, but did not recommend, a bill that would have limited rules promulgated by the WQCC that are more stringent than federal requirements to those necessary to protect private property rights, among other conditions.

**Committee recommendations.** The committee recommended 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 recommended Bill D, which expands the allowable uses to include the irrigation of industrial hemp. The committee requested, but did not recommend, two additional bills which would have expanded allowable uses to include food crop irrigation and toilet flushing.

## Mining and Water Issues

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The committee heard briefings regarding various mining issues during the interim. Most of these discussions were focused on water treatment, mine abandonment and cleanup, and water use during mining.

**Proposed silver mine.** The committee received a briefing on a proposed silver mine near Ouray, Colorado and the challenges it has experienced obtaining a water discharge permit from the WQCC. This mine would be located at the site of the historic Revenue-Virginus Mine.

**Abandoned mines in Colorado.** The committee received a briefing from the director of the Inactive Mine Reclamation Program in the Division of Reclamation, Mining, and Safety (DRMS), on the remediation and monitoring of, and laws and regulations related to, abandoned mines in Colorado. The division is responsible for safeguarding hazards and conducting reclamation and remediation projects at legacy and forfeited mine sites in Colorado. The division estimated that there are more than 22,000 abandoned hard rock mines in Colorado. About 40 percent of these mines have been safeguarded by the DRMS Inactive Mines Reclamation Program over the past 30 years, but inactive mines continue to be a significant source of water pollution affecting more than 1,300 miles of streams and waterways. There are approximately 500 legacy mine sites that have been identified as having a measurable impact on water quality. Of these, 230 are problematic because of mine drainage (as opposed to storm water issues from tailings and waste rock). Forty-seven of these sites have active water treatment efforts. Another 35 are being evaluated, and 148 are still draining into waterways without any mitigation.

**Liability concerns for voluntary mine cleanup.** Because abandoned mines do not have an identifiable and financially viable owner or operator, some pollution continues unabated because state and federal resources are limited. Environmental organizations and other private entities with expertise in mine reclamation have expressed an interest in helping to remediate abandoned hard rock mines. However, these parties, commonly known as Good Samaritans, are discouraged from remediating abandoned mines because of the threat of liability under the federal law for such third-party reclamation efforts. In 2015, the committee recommended a memorial that urged Congress to pass legislation establishing a Good Samaritan exemption from liability under federal law. Such legislation has yet to be enacted by Congress. The committee heard from a representative from a nonprofit policy center working on the Good Samaritan issues related to abandoned mines.

**Alluvial mining.** Alluvium is gravel and sand deposited in stream valleys through erosion. This material is used by the construction industry for roads, concrete, and other purposes. Sand and gravel can be removed by pumping the alluvial water from the mine to expose the mineral deposit (termed dewatering). The material in a dewatered mine is then removed. Dewatering reduces the water level outside of the mine and the reduced level can extend beyond the permitted mine area.

**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 (SWSP) approved by the State Engineer for tributary groundwater.

The committee heard from representatives of the Colorado Stone, Sand, and Gravel Association regarding potential statutory changes related to SWSPs for gravel pits. The Division of Water Resources in the DNR approves well permits and SWSPs.

**Committee recommendations.** The committee recommended Bill A, which allows a designated groundwater replacement plan, or a SWSP 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.

## **Colorado River Management Issues**

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**Allocation of the Colorado River.** The committee received a briefing regarding the hydrology of the Colorado River and the effects of drought years and the current levels of Lake Powell on Colorado's water supply. During wet years, Colorado and other Upper Basin states must satisfy water delivery obligations under the Colorado River Compact. As a result of several droughts in the Upper Colorado River Basin since 2000, natural flows reaching Lake Powell have not been sufficient to replace annual releases currently made to the Lower Basin.

The committee also heard from the Governor's Special Policy Advisor on Water, CWCB, and DWR, who gave the committee an overview of the Colorado River Compact. The panel discussed efforts by Upper Basin states to manage water under the Colorado River Compact and the need for long-term mechanisms to address the structural water deficit in Lower Basin states. The panel also explained CWCB and DWR's roles in planning for future uses of water and in administering water rights associated with the compact.

**Water Banking Pilot Project.** The committee heard testimony from the Grand Valley Water Users Association (GVWUA) about a pilot project that it is operating to temporarily reduce consumptive uses in the Colorado River Basin in Colorado. The association, with assistance from the Water Bank Work Group, developed a water-banking pilot project that began during the 2017 irrigation season and conserved over 3,200 acre-feet of water. The GVWUA is currently developing a second year of the pilot project that will operate during the 2018 irrigation season. The pilot project will help develop the mechanisms necessary for a Western Slope irrigation water provider to reduce consumptive use in a voluntary and compensated manner. The process of creating the pilot project has allowed the GVWUA to better understand the concerns of affected water users, as well as understand the mechanics, timing, and logistics of developing demand management projects administered and managed by irrigation districts.

**Legal challenges.** Colorado and other upper basin states have been exploring mechanisms to move, or "shepherd," conserved consumptive-use water to Lake Powell to benefit the overall Upper Basin system and diminish the threat of curtailment of existing uses of water. The committee heard testimony from a representative of the University of Colorado's Getches-Wilkinson Center for Natural Resources, Energy, and the Environment, concerning potential legal limits and ambiguities in the law that may limit the ability of Colorado to deliver the conserved water to Lake Powell. For example, a legal mechanism may need to be created to protect the conserved water from diversion by water rights that exist between Lake Powell and the point where the conserved water is delivered to the river system. Additional legislation may be needed to enable Colorado to operate a water conservation project for purpose of avoiding an interstate compact call.

## **Local Water Supply Projects**

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The committee heard from several sponsors of new water supply projects in Colorado, including the Gross Reservoir Expansion Project, the Northern Integrated Supply Project (NISP), the Windy Gap Firming Project, the Chatfield Storage Reallocation Project, and the Water Infrastructure Supply Efficiency (WISE) Project. The committee also heard from the City of Fort Collins regarding a proposal to share water between interconnected water systems.

**Gross Reservoir Expansion Project.** Gross Reservoir, completed in 1954 by Denver Water, stores water to supply northern areas of Denver Water's service area. In July 2017, Denver Water received a Section 404 permit from the U.S. Army Corps of Engineers to expand

the height of the existing dam by 131 feet, which will increase the reservoir capacity by 77,000 acre-feet. Denver Water has worked with many entities to identify local impacts of the expansion and to develop measures to mitigate the impacts, including the U.S. Forest Service, the U.S. Fish and Wildlife Service.

***NISP and Windy Gap Firming Project.*** The Northern Colorado Water Conservancy District (Northern Water) is the sponsor of two proposed water projects in northern Colorado: NISP and the Windy Gap Firming Project. NISP includes the construction of a 170,000-acre-foot Glade Reservoir northwest of Fort Collins and other project components. The U.S. Army Corps of Engineers is currently working on its Final Environment Impact Statement for NISP, with a final Record of Decision expected in 2018. The Windy Gap Firming Project includes the construction of a 90,000-acre-foot Chimney Hollow Reservoir near Carter Lake. The U.S. Army Corps of Engineers signed its final Record of Decision for the project in May 2017. Final design of Chimney Holly Reservoir is underway and construction is expected to begin in 2019.

***Chatfield Storage Reallocation Project.*** Chatfield Reservoir was built in 1975 by the U.S. Army Corps of Engineers for flood control purposes. In response to growing demands for water along Colorado's Front Range, the U.S. Army Corps of Engineers determined that the reservoir can accommodate an additional 20,600 acre-feet of water storage without compromising its flood control functions. The project is a partnership among eight water providers. The Chatfield Reservoir Mitigation Company was formed in 2015 to implement the project, which includes modifications to recreation facilities and other mitigation improvements. The existing dam will not be impacted by the project. Design work for the project has begun and construction is expected to take two and a half years.

***WISE Project.*** The WISE Project is a partnership between Aurora Water, Denver Water, and the South Metro Water Supply Authority (SMWSA). WISE utilizes existing water supplies from Denver Water and Aurora Water to provide supply benefits for the three entities. Benefits of WISE include offsetting delivery costs for Aurora Water, providing a renewable water supply for SMWSA, and providing drought and emergency supplies for Denver Water. The first water deliveries for WISE customers began in June 2017, and the remaining customers will begin receiving WISE water in 2018.

***Interconnected water systems.*** The committee heard testimony from the City of Fort Collins about the potential to share water between the city and neighboring water districts. Current law limits the place of use of water that has been decreed for use in a treated domestic or municipal water supply system to only that system. The committee requested, but not did recommend, a bill authorizing the use of water in certain interconnected water supply systems under certain conditions.

## **Historical Consumptive Use**

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***Calculation of historical consumptive use.*** The amount of water consumed over a certain period, called historical consumptive use, is one way to measure and limit a water right. Historical consumptive use determines the amount of a water right that may be sold or transferred to another user through a water rights change case. House Bill 13-1248 encourages the development of lease-fallowing pilot projects under the direction of the CWCB and the Division of Water Resources (DWR). The criteria and guidelines developed for House Bill 13-1248 specify that the "lease fallow tool" (LFT) be used to evaluate potential lease fallow pilot projects.



The LFT was developed by DWR and Colorado State University under the direction of the Lease Fallow Tool Technical Committee, which included representatives from the State Engineer's Office and the Governor's Special Policy Advisor on Water. The LFT was developed to simplify and streamline the evaluation of historic consumptive use and return flows from irrigation and the review of lease-fallowing projects. The LFT was most recently used by the Catlin Canal lease-fallowing pilot project, which was authorized under the 2013 law. The project involves transfers of water from farmland irrigated by the Catlin Canal in Otero County for temporary municipal uses and has been operating for two years.

**House Bill 17-1289.** In 2017, the General Assembly passed House Bill 17-1289, which requires the committee to study during the 2017 interim whether the State Engineer should be given statutory authority to promulgate rules that would:

- adopt a nonbinding, streamlined methodology for determining factors and using other assumptions for calculating the historical consumptive use of a water right;
- provide guidance for all components of an historical consumptive use analysis for a change of water right using geographically specific considerations; and
- ensure that the calculation of the historical consumptive use complies with current state water law.

The study's goal is to investigate the feasibility, costs, and impacts of using a nonbinding alternative, such as the LFT, to calculate historical consumptive use of a water right that may reduce transaction costs and the time necessary to obtain approval of loans and temporary and permanent changes of water rights, while ensuring that no injury results from the approval. The committee heard presentations from the State Engineer and the Governor's Special Policy Advisor on Water that addressed current law and the potential benefit of new rules allowing the widespread use of the LFT. The committee also heard from representatives of Leonard Rice Engineers, Centennial Water and Sanitation District, and the Lower South Platte Conservation District regarding the limitations of the LFT outside of the Lower Arkansas River Basin. Specific concerns include the conservative nature of the LFT and the variability of water use in other river basins. The committee did not make any recommendations regarding the LFT or another streamlined methodology for calculating historical consumptive use.

## **High Groundwater Issues in the South Platte Basin**

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**House Bill 12-1278 study.** In 2012, the General Assembly passed House Bill 12-1278, which directed the Colorado Water Institute at Colorado State University to conduct a study of the South Platte alluvial aquifer and the management of the water system in the South Platte River Basin. As part of this study, the Colorado Water Institute examined localized areas of high groundwater that are occurring in the basin near the communities of Fort Morgan, Gilcrest, Julesburg, and Sterling. The results of the study were reported to the General Assembly on December 31, 2013. The report determined extensive development of recharge ponds and changes in groundwater pumping in the past decade have likely changed local groundwater conditions. The report's recommendations included:

- the mitigation of localized high water table conditions by the State Engineer;
- the development of two pilot projects allowing the State Engineer to track and administer high groundwater zones to lower the water table in the area;
- the establishment of a framework for the voluntary movement of excess water supplies between augmentation plans;

- the development of uniform and transparent reporting standards for augmentation plan accounting;
- the implementation of basin-wide management through the development of a basin-wide groundwater monitoring network; and
- the creation of basin-specific guidelines for the implementation of administrative curtailment orders that reduce waste and facilitate efficient management.

**Legislation implementing study recommendations.** In response to the recommendations of the study conducted in accordance with House Bill 12-1278, the General Assembly passed three pieces of legislation – House Bill 15-1013, House Bill 15-1166, and House Bill 15-1178. The committee heard testimony from the Special Policy Advisor to the Governor on Water and a representative of the Groundwater Technical Committee on implementation of these laws. The committee also heard testimony from communities impacted by the rising groundwater.

House Bill 15-1013, which was recommended by the Water Resources Review Committee, implemented two recommendations of the HB 12-1278 study report for the mitigation of localized high water table conditions. The bill required the CWCB and the State Engineer to select two pilot projects to test alternative methods of lowering the water table in areas in the basin experiencing damaging high groundwater levels. One of the pilot projects was to be either located near Gilcrest or LaSalle, with the other being located in Sterling. The first pilot project was located in the town of Gilcrest and was funded with grant money in accordance with House Bill 15-1178. The first year of the Gilcrest pilot project concluded in November of 2016, and the project recently entered its second year.

House Bill 15-1166 created a basin-wide tributary groundwater monitoring network in the South Platte alluvial aquifer. The State Engineer is tasked with the design and operation of the monitoring network, which consists of:

- wells in the existing DWR monitoring network with the addition of up to 20 data loggers to collect data and up to ten new wells to fill data gaps identified by the South Platte Basin Roundtable;
- wells that are part of an independent monitoring network owned by qualified parties other than DNR; and
- wells owned by a state agency, water conservancy district, special district, county, municipality, or other unit of state or local government.

The law directed the State Engineer, in consultation with the CWCB and the public, to develop and publish one or more protocols for groundwater level data measurement, data collection, and data entry. To date, 141 wells have been added to the network, and equipment used for data collection has been purchased for each of the wells.

House Bill 15-1178 created the Emergency Dewatering Grant Program and directed the CWCB, in collaboration with the State Engineer, to develop criteria and guidelines and the accompanying real-time collection for the program. As part of the program, the CWCB and State Engineer award grants for emergency pumping of wells permitted for dewatering within or near Gilcrest and Sterling. The CWCB was directed to seek input from the South Platte Basin Roundtable on the general costs associated with dewatering and the infrastructure needed to implement the dewatering program. As part of this program, several grants have been distributed to provide funding for projects. In the town of Gilcrest, grant money funded the School Well Dewatering System and the Dewatering and Conveyance Improvement Study, which was completed in October of 2016. Grant funding was also awarded to the dewatering pilot project in the town of Gilcrest and to help fund the Pawnee Ridge Dewatering System.



**Committee discussion.** The committee heard updates on the rising groundwater in the South Platte River Basin from CWCB, the DWR, the Central Colorado Water Conservancy District, and residents of the Town of Gilcrest. The CWCB provided the committee with data collected by the well monitoring network and with updates on the studies and projects authorized under House Bill 15-1178. The committee considered, but did not recommend, two bills addressing the high water table in the South Platte River Basin.

## **Colorado Water Plan**

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**Governor's executive order concerning the Colorado Water Plan.** In 2013, Governor Hickenlooper issued an executive order directing the CWCB to commence work on the Colorado Water Plan (CWP). According to the Governor's executive order, the Colorado Water Plan must promote a productive economy that supports vibrant and sustainable cities, viable and productive agriculture, and a robust skiing, recreation, and tourism industry. It must also incorporate an efficient and effective water infrastructure promoting smart land use and a strong environment that includes healthy watersheds, rivers and streams, and wildlife. CWCB released the final draft of the CWP on November 19, 2015.

**Senate Bill 14-115.** In 2014, the legislature enacted legislation to guide the development of the CWP. Senate Bill 14-115 declares that the General Assembly is primarily responsible for guiding the development of state water policy. It also declares that this law is necessary to protect the interests of the public in the state's water resources and that the General Assembly intends to engage the people of the state in a public dialogue regarding optimal state water policy. The law also affirms the legislature's delegation of policy-making authority to the CWCB, and declares that the law seeks to promote the policies, processes, basin roundtable plans, and Interbasin Compact negotiations conducted pursuant to the "Colorado Water for the 21st Century Act," and the Interbasin Compact Charter. The law requires the WRRC to hold at least one public hearing in each geographic region associated with basin roundtables to collect feedback from the public on the scope, fundamental approach, and basic elements of the draft CWP. These hearings occurred during the 2014 and 2015 interims.

**Next steps in the Senate Bill 14-115 process.** Pursuant to Senate Bill 14-115, the WRRC may repeat the review process for the CWP, including public meetings in each basin, whenever the CWCB submits a significant amendment to the plan. By November 1 of each year following the submission to the committee of a plan or plan amendment, any member of the General Assembly may request that the WRRC hold one or more hearings to review the plan or plan amendment. No later than November 1, 2017, and every five years thereafter, the committee is also required to prepare a list of specific topics that it deems necessary to be addressed in the plan. The CWCB must provide its recommendations, including suggestions for potential legislation, for the committee's consideration within eight months after receipt of the list of specific topics.

According to Senate Bill 14-115, the General Assembly intended to engage the people of the state in a public dialogue regarding optimum state water policy. Towards this end, the WRRC conducted a public outreach process that encouraged any interested person to provide testimony on state water policy at a public meeting or submit comments directly through the committee's website or by other means. During a listening session on August 23, 2017, the committee received public input regarding the CWP from the Dolores Water Conservancy District, Forest Health Advisory Council, Nature Conservancy, National Young Farmers Coalition, and Colorado Water Congress. The committee also received public comments through letters, emails, and completed questionnaires.

**Implementation of the CWP by the CWCB.** The committee received a briefing from the CWCB on the progress of the implementation of the CWP. The CWCB testified that it has developed a plan to create a repayment guarantee fund, bolster the Water Supply Reserve Fund program, and support several education, conservation, reuse, and agricultural viability actions identified in the CWP. During the 2017 legislative session, the General Assembly passed legislation to authorize the following transfers to the CWCB Construction Fund:

- a one-time transfer of \$30 million into a repayment guarantee fund;
- a transfer of \$10 million for the Water Supply Reserve Fund for water supply projects;
- a transfer of \$5 million for the Watershed Restoration Program for the development of stream management plans; and
- a transfer of \$10 million for additional nonreimbursable CWCB programming to implement the CWP.

## Summary of Recommendations

As a result of the committee's activities, the committee recommended five bills to the Legislative Council for consideration in the 2018 session. At its meeting on November 15, 2017, the Legislative Council approved the five recommended bills for introduction. The approved bills are described below.

### **Bill A — Authorize Water Use Incidental Sand and Gravel Mines**

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Bill A specifies that a replacement plan for sand and gravel mines in designated groundwater basins or a substitute water supply plan and the well 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**

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Bill B creates new financing mechanisms for the ANS Program in Colorado Parks and Wildlife within 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 non-resident 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**

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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**

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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.

## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>

### Meeting Dates and Topics Discussed

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August 2, 2017

- ◆ Pilot project progress reports for agricultural water alternative transfer methods
- ◆ Update on Arkansas River management issues
- ◆ State Engineer rules on historical consumptive use pursuant to House Bill 17-1289
- ◆ State Engineer update on the Republican River, water court rules, and State Engineer statute cleanup
- ◆ Update on South Platte water storage study pursuant to House Bill 16-1256
- ◆ Update on Severance Tax and Federal Mineral Lease Revenue
- ◆ Update on recent water supply projects and implementation of Senate Bill 16-200
- ◆ Traditional and new funding mechanisms for water projects
- ◆ Update on aquatic nuisance species prevention and funding

August 3, 2017

- ◆ Update on rising groundwater in levels in the South Platte River Basin
- ◆ Aquifer storage and recovery
- ◆ Abandoned mines
- ◆ Overview of federal water legislation

August 23, 2017 – Meeting in Steamboat Springs

- ◆ Proposed changes to Colorado Water Resources and Power Development Authority loan programs
- ◆ Update from the Northern Water Conservancy District on the Northern Integrated Supply Project, Environmental Reservoir Release Dedications, and the Windy Gap Firming Project
- ◆ Update on the implementation of the Colorado Water Plan
- ◆ Listening Session on the Colorado Water Plan

September 6, 2017

- ◆ Implementation of Water Quality Control Commission Regulation 84 and Regulation 86
- ◆ The status of reuse in Colorado
- ◆ Reclaimed water regulations
- ◆ Funding for drinking water and wastewater projects
- ◆ Proposed legislation to facilitate municipal water sharing
- ◆ Recommendations for the Colorado Water Plan

September 7, 2017

- ◆ Update on the Water Bank Working Group's Grand Valley Pilot Project
- ◆ Potential statutory changes to substitute water supply plans for gravel pits
- ◆ Requests for draft committee legislation

October 4, 2017

- ◆ Update from Ouray silver mines
- ◆ Update from the Colorado Foundation for Water Education (now Water Education Colorado)
- ◆ Update on the Chatfield Storage Reallocation Project
- ◆ Colorado River compact issues

October 5, 2017

- ◆ Shepherding water in Colorado for compact security purposes
- ◆ The Hidden Value of Landscapes Study
- ◆ Update from the Forest Health Advisory Council
- ◆ Water Infrastructure and Supply Efficiency Project update and South Metro's progress to sustainable water supplies
- ◆ Discussion on House Bill 17-1289 concerning historical consumptive use
- ◆ Follow-up briefing on high groundwater issues
- ◆ Background on seaplanes and Colorado State Parks
- ◆ Seaplanes and aquatic nuisance species

October 31, 2017

- ◆ Follow-up discussion on high groundwater issues in the South Platte River Basin
- ◆ Final recommendations to the CWCB regarding the Colorado Water Plan
- ◆ Final action on committee legislation

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**BILL A**

LLS NO. 18-0222.01 Thomas Morris x4218

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Coram and Baumgardner**, Donovan, Jones, Sonnenberg

**HOUSE SPONSORSHIP**

**Saine and Arndt**, Esgar, Hansen, Willett

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**Senate Committees**

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE ABILITY OF OPERATORS OF SAND AND GRAVEL MINES**  
102                    **TO USE WATER INCIDENTAL TO SAND AND GRAVEL MINING**  
103                    **OPERATIONS TO MITIGATE THE IMPACTS OF MINING.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Water Resources Review Committee.** Current law requires operators of sand and gravel open mines that expose groundwater to the atmosphere to obtain a well permit and either: A replacement plan approved by the ground water commission for designated groundwater; or a plan for augmentation approved by the water court or a plan of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

substitute supply approved by the state engineer for tributary groundwater. The bill specifies that the replacement plan (in **section 1** of the bill) or the plan of substitute supply (in **section 2**) and the permit may authorize uses of water incidental to open mining for sand and gravel, including specifically (among other things) the mitigation of impacts from mining and dewatering.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-107, **amend**  
3 (6)(a)(I) as follows:

4 **37-90-107. Application for use of groundwater - publication**  
5 **of notice - conditional permit - hearing on objections - well permits.**

6 (6) (a) (I) ~~No~~ A person shall NOT, in connection with the extraction of  
7 sand and gravel by open mining, as defined in section 34-32-103 (9),  
8 ~~C.R.S.~~, expose designated groundwater to the atmosphere unless ~~said~~ THE  
9 person has obtained a well permit from the ground water commission. If  
10 an application for such a well permit cannot otherwise be granted  
11 pursuant to this section, a well permit shall be issued upon approval by  
12 the ground water commission of a replacement plan ~~which~~ THAT meets  
13 the requirements of this ~~article~~ ARTICLE 90, pursuant to the guidelines or  
14 rules ~~and regulations~~ adopted by the commission. THE WELL PERMIT AND  
15 REPLACEMENT PLAN MAY AUTHORIZE USES OF WATER INCIDENTAL TO  
16 OPEN MINING FOR SAND AND GRAVEL, INCLUDING PROCESSING AND  
17 WASHING MINED MATERIALS; DUST SUPPRESSION; MINED LAND  
18 RECLAMATION INCLUDING TEMPORARY IRRIGATION FOR REVEGETATION;  
19 LINER OR SLURRY WALL CONSTRUCTION; PRODUCTION OF CONCRETE AND  
20 OTHER AGGREGATE-BASED CONSTRUCTION MATERIALS; DEWATERING;  
21 AND MITIGATION OF IMPACTS FROM MINING AND DEWATERING.

22 **SECTION 2.** In Colorado Revised Statutes, 37-90-137, **amend**



1 (11)(a)(I) as follows:

2 **37-90-137. Permits to construct wells outside designated**  
3 **basins - fees - permit no groundwater right - evidence - time**  
4 **limitation - well permits - rules.** (11) (a) (I) ~~No~~ A person shall NOT, in  
5 connection with the extraction of sand and gravel by open mining as  
6 defined in section 34-32-103 (9), ~~C.R.S.~~, expose groundwater to the  
7 atmosphere unless ~~said~~ THE person has obtained a well permit from the  
8 state engineer pursuant to this section. ~~A well permit shall be issued~~ THE  
9 STATE ENGINEER SHALL ISSUE A WELL PERMIT upon approval by the water  
10 court of a plan for augmentation or upon approval by the state engineer  
11 of a plan of substitute supply; except that no increased replacement of  
12 water shall be required by the water court or the state engineer whenever  
13 the operator or owner of land being mined has, prior to January 15, 1989,  
14 entered into and continually thereafter complied with a written agreement  
15 with a water conservancy district or water users' association to replace or  
16 augment the depletions in connection with or resulting from open mining  
17 of sand and gravel. THE WELL PERMIT AND PLAN OF SUBSTITUTE SUPPLY  
18 MAY AUTHORIZE USES OF WATER INCIDENTAL TO OPEN MINING FOR SAND  
19 AND GRAVEL, INCLUDING PROCESSING AND WASHING MINED MATERIALS;  
20 DUST SUPPRESSION; MINED LAND RECLAMATION INCLUDING TEMPORARY  
21 IRRIGATION FOR REVEGETATION; LINER OR SLURRY WALL CONSTRUCTION;  
22 PRODUCTION OF CONCRETE AND OTHER AGGREGATE-BASED  
23 CONSTRUCTION MATERIALS; DEWATERING; AND MITIGATION OF IMPACTS  
24 FROM MINING AND DEWATERING.

25 **SECTION 3. Act subject to petition - effective date -**  
26 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
27 the expiration of the ninety-day period after final adjournment of the

1 general assembly (August 8, 2018, if adjournment sine die is on May 9,  
2 2018); except that, if a referendum petition is filed pursuant to section 1  
3 (3) of article V of the state constitution against this act or an item, section,  
4 or part of this act within such period, then the act, item, section, or part  
5 will not take effect unless approved by the people at the general election  
6 to be held in November 2018 and, in such case, will take effect on the  
7 date of the official declaration of the vote thereon by the governor.

8 (2) This act applies to conduct occurring on or after the applicable  
9 effective date of this act.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**BILL B**

LLS NO. 18-0224.01 Jennifer Berman x3286

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Esgar and Arndt**, Hansen, Willett

**SENATE SPONSORSHIP**

**Donovan and Coram**, Baumgardner, Jones, Sonnenberg

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE FINANCING OF THE DIVISION OF PARKS AND**  
102            **WILDLIFE'S AQUATIC NUISANCE SPECIES PROGRAM, AND, IN**  
103            **CONNECTION THEREWITH, CREATING AN AQUATIC NUISANCE**  
104            **SPECIES STAMP FOR THE OPERATION OF MOTORBOATS AND**  
105            **SAILBOATS IN WATERS OF THE STATE, INCREASING PENALTIES**  
106            **RELATED TO THE INTRODUCTION OF AQUATIC NUISANCE SPECIES**  
107            **INTO THE WATERS OF THE STATE, AND COMBINING TWO**  
108            **SEPARATE FUNDS RELATED TO THE AQUATIC NUISANCE SPECIES**  
109            **PROGRAM INTO ONE FUND.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

*applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Water Resources Review Committee. Section 3** of the bill updates a legislative declaration concerning aquatic nuisance species to encourage the federal government to dedicate sufficient funding and resources to the detection, prevention, control, and eradication of aquatic nuisance species for federally owned or managed aquatic resources and water infrastructure in Colorado.

**Section 4** defines "motorboat" and "sailboat".

**Section 5** authorizes the division of parks and wildlife (division) to seek reimbursement from a conveyance owner (*i.e.*, motor vehicles, trailers, and watercraft) for the storage and decontamination of a conveyance that has been impounded and quarantined due to the suspected presence of an aquatic nuisance species.

**Section 6** requires an in-state resident registering a motorboat or sailboat in Colorado for use on or after January 1, 2019, to pay a \$25 fee for an aquatic nuisance species stamp in addition to the watercraft registration fee. A nonresident using a motorboat or sailboat in waters of the state on or after January 1, 2019, is required to pay a \$50 fee for an aquatic nuisance species stamp.

**Section 7** increases penalties related to aquatic nuisance species and creates new penalties for failing to purchase an aquatic nuisance species stamp; failing to comply with a qualified peace officer's or an authorized agent's request to stop, detain, and inspect a vessel; and launching a vessel without first obtaining a vessel inspection at an aquatic nuisance species check station.

**Section 8** combines the division of parks and outdoor recreation aquatic nuisance species fund and the division of wildlife aquatic nuisance species fund into a single fund: The division of parks and wildlife aquatic nuisance species fund.

**Sections 1, 2, 9, and 10** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 33-1-112, **repeal**

3 (1)(b) as follows:

4 **33-1-112. Funds - cost accounting - definition - repeal.**

5 ~~(1) (b) For the fiscal year commencing July 1, 2008, there shall be~~  
6 ~~transferred one million two hundred fifty thousand dollars from the~~  
7 ~~wildlife cash fund to the division of wildlife aquatic nuisance species~~

1 ~~fund, created in section 33-10.5-108.~~

2 **SECTION 2.** In Colorado Revised Statutes, 33-10-111, **amend**  
3 (1) as follows:

4 **33-10-111. Parks and outdoor recreation cash fund - parks for**  
5 **future generations trust fund - creation - fees - accounting**  
6 **expenditures for roads and highways - definition.** (1) Except as  
7 provided in subsection (6) of this section and ~~sections 33-14-106~~  
8 SECTIONS 33-10.5-104.5, 33-10.5-105, 33-14-106, 33-14.5-106, and  
9 33-15-103, all ~~moneys~~ MONEY derived pursuant to articles 10 to 15 of this  
10 ~~title~~ TITLE 33 from division facilities and fees, and all interest earned on  
11 ~~such moneys~~ THE MONEY, shall be credited to the parks and outdoor  
12 recreation cash fund, which is hereby created, together with all ~~moneys~~  
13 MONEY donated, transferred, or appropriated from whatever source for the  
14 use of the division in administering, managing, and supervising the state  
15 parks and outdoor recreation system and in the financing of impact  
16 assistance grants pursuant to part 3 of article 25 of title 30. ~~C.R.S.~~ All  
17 cash receipts from state-owned desert, saline, and internal improvement  
18 lands shall be credited to the parks and outdoor recreation cash fund.

19 **SECTION 3.** In Colorado Revised Statutes, **amend** 33-10.5-101  
20 as follows:

21 **33-10.5-101. Legislative declaration.** (1) The general assembly  
22 hereby ~~recognizes the~~ FINDS, DETERMINES, AND DECLARES THAT:

23 (a) AQUATIC NUISANCE SPECIES HAVE devastating economic,  
24 environmental, and social impacts ~~of aquatic nuisance species~~ on the  
25 aquatic resources and water infrastructure of the state;

26 (b) ~~The general assembly further recognizes the potential of~~  
27 Recreational vessels ~~to be~~ ARE a significant source of the spread of

1 aquatic nuisance species in Colorado;

2 (c) ONE OF THE DIVISION'S HIGHEST PRIORITIES SHOULD BE THE  
3 PREVENTION, CONTAINMENT, AND ERADICATION OF AQUATIC NUISANCE  
4 SPECIES IN WATERS OF THE STATE IN WHICH THE SPECIES HAVE BEEN  
5 DETECTED OR ARE LIKELY TO BE INTRODUCED; AND

6 (d) Therefore, ~~the general assembly finds, determines, and~~  
7 ~~declares that~~ the purposes of enacting this ~~article~~ ARTICLE 10.5 are:

8 (I) To implement actions to detect, prevent, contain, control,  
9 monitor, and, whenever possible, eradicate aquatic nuisance species from  
10 the waters of the state and to protect human health, safety, and welfare  
11 from aquatic nuisance species; ~~It is the intent of the general assembly~~ AND

12 (II) To foster and encourage, to the greatest extent possible,  
13 voluntary compliance with this ~~article~~. ~~It is the intent of the general~~  
14 ~~assembly that prevention, containment, and eradication of aquatic~~  
15 ~~nuisance species in waters of the state in which such species have been~~  
16 ~~detected or are likely to be introduced, shall be the division's highest~~  
17 ~~priorities~~ ARTICLE 10.5.

18 (2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND  
19 DECLARES THAT:

20 (a) SOME OF THE AQUATIC RESOURCES AND WATER  
21 INFRASTRUCTURE WITHIN THE STATE ARE OWNED OR MANAGED BY THE  
22 UNITED STATES BUREAU OF RECLAMATION, THE UNITED STATES ARMY  
23 CORPS OF ENGINEERS, THE UNITED STATES FOREST SERVICE, OR ANOTHER  
24 AGENCY OF THE FEDERAL GOVERNMENT, AND NOT BY THE DIVISION;

25 (b) A FAILURE TO DETECT, PREVENT, CONTAIN, AND, WHEN  
26 POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES FROM ANY ONE OF  
27 THESE FEDERALLY MANAGED AQUATIC RESOURCES OR WATER

1 INFRASTRUCTURE FACILITIES WOULD THREATEN THE HEALTH AND  
2 VIBRANCY OF ALL AQUATIC RESOURCES AND WATER INFRASTRUCTURE  
3 FACILITIES WITHIN THE STATE; AND

4 (c) THEREFORE, THE PURPOSES FOR WHICH THIS ARTICLE 10.5 IS  
5 ENACTED MAY BE ACHIEVED ONLY IF THE FEDERAL GOVERNMENT  
6 DEDICATES SUFFICIENT FUNDING AND RESOURCES TO THE PREVENTION,  
7 CONTAINMENT, AND, WHEN POSSIBLE, ERADICATION OF AQUATIC  
8 NUISANCE SPECIES FROM THE AQUATIC RESOURCES AND WATER  
9 INFRASTRUCTURE MANAGED BY FEDERAL AGENCIES WITHIN THE STATE.

10 **SECTION 4.** In Colorado Revised Statutes, 33-10.5-102, **amend**  
11 the introductory portion; and **add** (8.5) and (10) as follows:

12 **33-10.5-102. Definitions.** As used in this ~~article~~ ARTICLE 10.5,  
13 unless the context otherwise requires:

14 (8.5) "MOTORBOAT" HAS THE SAME MEANING AS SET FORTH IN  
15 SECTION 33-13-102 (1).

16 (10) "SAILBOAT" HAS THE SAME MEANING AS SET FORTH IN  
17 SECTION 33-13-102 (4).

18 **SECTION 5.** In Colorado Revised Statutes, 33-10.5-104, **amend**  
19 (3); and **add** (6) as follows:

20 **33-10.5-104. Inspection of conveyances - impoundment and**  
21 **quarantine - reimbursement - rules.** (3) The impoundment and  
22 quarantine of a conveyance may continue for the reasonable period  
23 necessary to inspect and decontaminate the conveyance and ensure that  
24 the aquatic nuisance species has been completely ~~eradicated~~ REMOVED  
25 from the conveyance and is no longer living.

26 (6) WHEN A CONVEYANCE THAT HAS BEEN IMPOUNDED AND  
27 QUARANTINED PURSUANT TO THIS SECTION IS DECONTAMINATED, THE

1 DIVISION MAY CHARGE THE OWNER OF THE CONVEYANCE THE COST  
2 INCURRED BY THE DIVISION OR ITS CONTRACTOR IN STORING AND  
3 DECONTAMINATING THE CONVEYANCE.

4 **SECTION 6.** In Colorado Revised Statutes, **add** 33-10.5-104.5  
5 as follows:

6 **33-10.5-104.5. Aquatic nuisance species stamp - creation -**  
7 **short title - rules.** (1) THE SHORT TITLE OF THIS SECTION IS THE  
8 "MUSSEL-FREE COLORADO ACT".

9 (2) (a) WHEN OBTAINING A VESSEL REGISTRATION FROM THE  
10 DIVISION PURSUANT TO SECTION 33-13-103 FOR 2019 AND SUBSEQUENT  
11 YEARS, A PERSON SHALL ALSO PURCHASE AN AQUATIC NUISANCE SPECIES  
12 STAMP FROM THE DIVISION AT A COST OF TWENTY-FIVE DOLLARS. THE  
13 PERSON'S VESSEL REGISTRATION SUFFICIENTLY DEMONSTRATES PAYMENT  
14 FOR THE AQUATIC NUISANCE SPECIES STAMP.

15 (b) ON AND AFTER JANUARY 1, 2019, FOR ANY MOTORBOAT OR  
16 SAILBOAT EXEMPTED FROM REGISTRATION IN COLORADO PURSUANT TO  
17 SECTION 33-13-103 (1)(b) TO (1)(d), A PERSON SHALL PURCHASE AN  
18 AQUATIC NUISANCE SPECIES STAMP FROM THE DIVISION AT A COST OF  
19 FIFTY DOLLARS TO OPERATE OR USE THE MOTORBOAT OR SAILBOAT ON THE  
20 WATERS OF THIS STATE OR TO POSSESS THE MOTORBOAT OR SAILBOAT AT  
21 A VESSEL STAGING AREA; EXCEPT THAT A PERSON EXEMPTED FROM  
22 REGISTRATION IN COLORADO UNDER SECTION 33-13-103 (1)(b), BUT WHO  
23 IS A COLORADO RESIDENT, NEED ONLY PAY TWENTY-FIVE DOLLARS FOR AN  
24 AQUATIC NUISANCE SPECIES STAMP PURSUANT TO SUBSECTION (2)(a) OF  
25 THIS SECTION. A PERSON WHO PAYS FOR AN AQUATIC NUISANCE SPECIES  
26 STAMP FOR A MOTORBOAT OR SAILBOAT PURSUANT TO THIS SUBSECTION  
27 (2)(b) SHALL, WHEN OPERATING THE MOTORBOAT OR SAILBOAT, RETAIN



1 THE STAMP RECEIPT ON HIS OR HER PERSON OR ON THE MOTORBOAT OR  
2 SAILBOAT.

3 (3) THE PARKS AND WILDLIFE COMMISSION MAY, BY RULE  
4 ADOPTED AFTER THE EFFECTIVE DATE OF THIS SECTION, ADJUST THE  
5 AMOUNT OF THE AQUATIC NUISANCE SPECIES STAMP DESCRIBED IN  
6 SUBSECTION (2) OF THIS SECTION BY AN AMOUNT UP TO THE TOTAL  
7 AMOUNT REFLECTED BY THE CHANGES MADE IN THE UNITED STATES  
8 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR THE  
9 DENVER-BOULDER-GREELEY CONSOLIDATED METROPOLITAN STATISTICAL  
10 AREA FOR ALL URBAN CONSUMERS AND ALL GOODS, OR ITS SUCCESSOR  
11 INDEX.

12 (4) THE DIVISION SHALL TRANSMIT THE STAMP FEES COLLECTED  
13 PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL  
14 CREDIT THEM TO THE DIVISION OF PARKS AND WILDLIFE AQUATIC  
15 NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108.

16 **SECTION 7.** In Colorado Revised Statutes, **amend** 33-10.5-105  
17 as follows:

18 **33-10.5-105. Prohibition of aquatic nuisance species -**  
19 **penalties.** (1) ~~No~~ A person shall NOT:

20 (a) Possess, import, export, ship, or transport an aquatic nuisance  
21 species;

22 (b) Release, place, plant, or cause to be released, placed, or  
23 planted into the waters of the state an aquatic nuisance species; ~~or~~

24 (c) Refuse to comply with a proper order issued under this ~~article~~  
25 ARTICLE 10.5; OR

26 (d) FAIL OR REFUSE TO REIMBURSE THE DIVISION IN ACCORDANCE  
27 WITH SECTION 33-10.5-104 (6).

1 (2) (a) A person who knowingly or willfully violates subsection  
2 (1) of this section:

3 (a) (I) For a first offense, is guilty of a class 2 petty offense, as  
4 defined by section 18-1.3-503, ~~C.R.S.~~, and, upon conviction, shall be  
5 ~~subject to a fine of one hundred fifty~~ FINED FIVE HUNDRED dollars and  
6 ~~shall be~~ issued a warning FROM THE DIVISION of the increased penalties  
7 for subsequent violations; ~~from the division;~~

8 (b) (II) For a second offense, is guilty of a misdemeanor and, upon  
9 conviction, shall be fined one thousand dollars; and

10 (c) (III) For a third and any subsequent offense, commits a class  
11 2 misdemeanor and, upon conviction, shall be punished as provided in  
12 section 18-1.3-501. ~~C.R.S.~~

13 (b) THE FINE AMOUNTS COLLECTED PURSUANT TO THIS  
14 SUBSECTION (2) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO  
15 SHALL CREDIT THE AMOUNTS TO THE DIVISION OF PARKS AND WILDLIFE  
16 AQUATIC NUISANCE SPECIES FUND, CREATED IN SECTION 33-10.5-108.

17 (3) (a) A PERSON SHALL NOT:

18 (I) FAIL OR REFUSE TO COMPLY WITH A QUALIFIED PEACE OFFICER'S  
19 OR AN AUTHORIZED AGENT'S REQUEST, PURSUANT TO SECTION  
20 33-10.5-104, TO STOP, DETAIN, AND INSPECT ANY CONVEYANCE THAT THE  
21 PERSON IS OPERATING;

22 (II) LAUNCH A VESSEL WITHOUT OBTAINING A CONVEYANCE  
23 INSPECTION AT AN AQUATIC NUISANCE SPECIES CHECK STATION PURSUANT  
24 TO SECTION 33-10.5-103; OR

25 (III) IF REQUIRED TO PURCHASE AN AQUATIC NUISANCE SPECIES  
26 STAMP PURSUANT TO SECTION 33-10.5-104.5, FAIL OR REFUSE TO  
27 PURCHASE THE STAMP.

1 (b) A PERSON WHO VIOLATES SUBSECTION (3)(a) OF THIS SECTION  
2 IS GUILTY OF A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION, SHALL BE  
3 PUNISHED BY A FINE OF ONE HUNDRED DOLLARS.

4 (c) THE PROCEEDS FROM COLLECTION OF THE FINES IMPOSED  
5 PURSUANT TO THIS SUBSECTION (3) SHALL BE TRANSMITTED TO THE STATE  
6 TREASURER, WHO SHALL CREDIT THE AMOUNTS COLLECTED TO THE  
7 DIVISION OF PARKS AND WILDLIFE AQUATIC NUISANCE SPECIES FUND  
8 CREATED IN SECTION 33-10.5-108.

9 **SECTION 8.** In Colorado Revised Statutes, **amend** 33-10.5-108  
10 as follows:

11 **33-10.5-108. Division of parks and wildlife aquatic nuisance**  
12 **species fund - creation - repeal.** (1) (a) (I) There is hereby created in the  
13 state treasury the division of parks and ~~outdoor recreation~~ WILDLIFE  
14 aquatic nuisance species fund, ALSO REFERRED TO IN THIS SECTION AS THE  
15 "FUND", which shall be administered by the division. ~~of parks and wildlife~~  
16 ~~in the department of natural resources and~~ THE FUND consists of all  
17 money transferred by the STATE treasurer as specified in ~~section~~ SECTIONS  
18 39-29-109.3 (2)(m), ~~and subsection (1.5)(a) of this section~~ 33-10.5-104.5,  
19 AND 33-10.5-105. All money in the fund is continuously appropriated to  
20 the division of ~~parks and wildlife~~ for the purpose of implementing ~~the~~  
21 ~~provisions of~~ this article 10.5. All money in the fund at the end of each  
22 fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall~~ DOES not revert to  
23 the general fund or any other fund.

24 (II) ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II), THE  
25 STATE TREASURER SHALL TRANSFER THE UNOBLIGATED BALANCE OF THE  
26 DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND, AS IT EXISTED  
27 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II), TO THE

1 FUND. THIS SUBSECTION (1)(a)(II) IS REPEALED, EFFECTIVE JULY 1, 2019.

2 (b) In the use of ~~such moneys~~ THE MONEY IN THE FUND, priority  
3 shall be given to containment and eradication of aquatic nuisance species  
4 in the waters of the state in which ~~such~~ AQUATIC NUISANCE species have  
5 been detected and prevention of the introduction of AQUATIC nuisance  
6 species in areas determined to be most vulnerable to such an introduction.

7 (1.5) ~~On July 1, 2017, the state treasurer shall transfer from the~~  
8 ~~general fund:~~

9 (a) ~~Two million four hundred fifty-two thousand one hundred~~  
10 ~~ninety-three dollars to the division of parks and outdoor recreation aquatic~~  
11 ~~nuisance species fund; and~~

12 (b) ~~One million one hundred eighty-four thousand one hundred~~  
13 ~~seventy-one dollars to the division of wildlife aquatic nuisance species~~  
14 ~~fund.~~

15 (2) (a) ~~There is hereby created in the state treasury the division of~~  
16 ~~wildlife aquatic nuisance species fund, which shall be administered by the~~  
17 ~~division of parks and wildlife in the department of natural resources and~~  
18 ~~consists of all money transferred by the treasurer as specified in sections~~  
19 ~~33-1-112 and 39-29-109.3 (2)(m) and subsection (1.5)(b) of this section.~~  
20 ~~All money in the fund is continuously appropriated to the division of~~  
21 ~~parks and wildlife for the purpose of implementing the provisions of this~~  
22 ~~article 10.5. All money in the fund at the end of each fiscal year shall~~  
23 ~~remain in the fund and shall not revert to the general fund or any other~~  
24 ~~fund.~~

25 (b) ~~In the use of such moneys, priority shall be given to~~  
26 ~~containment and eradication of aquatic nuisance species in the waters of~~  
27 ~~the state in which such species have been detected and prevention of the~~

1 ~~introduction of nuisance species in areas determined to be most~~  
2 ~~vulnerable to such an introduction.~~

3 **SECTION 9.** In Colorado Revised Statutes, 33-15-103, **amend**  
4 (1)(a) as follows:

5 **33-15-103. Disposition of fines - notice of court decisions.**

6 (1) (a) EXCEPT AS PROVIDED IN SECTION 33-10.5-105 (2)(b), all ~~moneys~~  
7 MONEY collected for fines under this ~~article~~ ARTICLE 15 and articles 10 to  
8 13 and 32 of this ~~title~~ TITLE 33, either by payment of a penalty assessment  
9 or assessed by a court upon conviction, shall be transmitted to the state  
10 treasurer, who shall credit ~~such moneys~~ THE MONEY to the parks and  
11 outdoor recreation cash fund; except that, when an arrest has been made  
12 or the citation for any offense, including those committed under article 14  
13 of this ~~title~~ TITLE 33, has been issued by a wildlife officer of the division  
14 of parks and wildlife, all ~~moneys~~ MONEY collected for the fine shall be  
15 transmitted to the state treasurer, who shall credit one-half to the wildlife  
16 cash fund and one-half to the general fund.

17 **SECTION 10.** In Colorado Revised Statutes, 39-29-109.3,  
18 **amend** (2)(m) as follows:

19 **39-29-109.3. Severance tax operational fund - repeal.**

20 (2) Subject to the requirements of subsections (3) and (4) of this section,  
21 if the general assembly chooses not to spend up to one hundred percent  
22 of the money in the operational fund as specified in subsection (1) of this  
23 section, the state treasurer shall transfer the following:

24 (m) For the mitigation of aquatic nuisance species as specified in  
25 article 10.5 of title 33: ~~C.R.S.:~~

26 (I) Repealed.

27 (II) For the state fiscal year commencing July 1, 2009, and every

1 state fiscal year thereafter, four million six thousand five dollars as  
2 follows: ~~Two million seven hundred one thousand four hundred sixty-one~~  
3 ~~dollars~~ to the division of parks and ~~outdoor recreation~~ WILDLIFE aquatic  
4 nuisance species fund created in section 33-10.5-108 (1). ~~C.R.S.~~; and one  
5 million three hundred four thousand five hundred forty-four dollars to the  
6 ~~division of wildlife aquatic nuisance species fund created in section~~  
7 ~~33-10.5-108 (2), C.R.S.~~

8           **SECTION 11. Act subject to petition - effective date -**  
9 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
10 the expiration of the ninety-day period after final adjournment of the  
11 general assembly (August 8, 2018, if adjournment sine die is on May 9,  
12 2018); except that, if a referendum petition is filed pursuant to section 1  
13 (3) of article V of the state constitution against this act or an item, section,  
14 or part of this act within such period, then the act, item, section, or part  
15 will not take effect unless approved by the people at the general election  
16 to be held in November 2018 and, in such case, will take effect on the  
17 date of the official declaration of the vote thereon by the governor.

18           (2) This act applies to offenses committed and conveyances  
19 registered on or after the applicable effective date of this act.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**BILL C**

LLS NO. 18-0227.01 Jennifer Berman x3286

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Arndt and Hansen**, Esgar

**SENATE SPONSORSHIP**

**Donovan**, Coram, Jones

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC**  
102 **WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING**  
103 **RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR**  
104 **MARIJUANA CULTIVATION.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Water Resources Review Committee.** The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. **Section 3** of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds marijuana cultivation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. **Sections 1, 2, and 4** make conforming amendments.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-103, **amend**  
3 (17.5) as follows:

4 **25-8-103. Definitions.** As used in this article 8, unless the context  
5 otherwise requires:

6 (17.5) "Reclaimed domestic wastewater" means wastewater that  
7 has received treatment IN ACCORDANCE WITH SECTION 25-8-205.7 AND  
8 that enables the wastewater to meet the requirements, prohibitions,  
9 standards, and concentration limitations adopted by the commission for  
10 subsequent reuses other than drinking.

11 **SECTION 2.** In Colorado Revised Statutes, 25-8-205, **amend**  
12 (1)(f) as follows:

13 **25-8-205. Control regulations.** (1) The commission may  
14 promulgate control regulations for the following purposes:

15 (f) IN ACCORDANCE WITH SECTION 25-8-205.7, to describe  
16 requirements, prohibitions, standards, and concentration limitations on the  
17 reuse of reclaimed domestic wastewater for purposes other than drinking  
18 that will protect public health and encourage the reuse of reclaimed  
19 domestic wastewater;



1           **SECTION 3.** In Colorado Revised Statutes, **add 25-8-205.7** as  
2 follows:

3           **25-8-205.7. Control regulations for reuse of reclaimed**  
4 **domestic wastewater - definitions - rules.** (1) AS USED IN THIS SECTION,  
5 UNLESS THE CONTEXT OTHERWISE REQUIRES:

6           (a) "CATEGORY 1 STANDARD" MEANS A WATER QUALITY  
7 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

8           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
9 SECONDARY TREATMENT WITH DISINFECTION; AND

10           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
11 THE E. COLI AND TOTAL SUSPENDED SOLIDS STANDARDS PROMULGATED BY  
12 THE COMMISSION FOR CATEGORY 1 WATER.

13           (b) "CATEGORY 2 STANDARD" MEANS A WATER QUALITY  
14 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

15           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
16 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

17           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
18 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE  
19 COMMISSION FOR CATEGORY 2 WATER.

20           (c) "CATEGORY 3 STANDARD" MEANS A WATER QUALITY  
21 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

22           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
23 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

24           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
25 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE  
26 COMMISSION FOR CATEGORY 3 WATER.

27           (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE

1 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND  
2 ANIMALS.

3 (e) (I) "FOOD CROP" MEANS A CROP PRODUCED FOR DIRECT HUMAN  
4 CONSUMPTION OR A TREE THAT PRODUCES NUTS OR FRUIT INTENDED FOR  
5 DIRECT HUMAN CONSUMPTION.

6 (II) "FOOD CROP" DOES NOT INCLUDE A CROP PRODUCED FOR  
7 ANIMAL CONSUMPTION ONLY; EXCEPT THAT A CROP PRODUCED WHERE  
8 LACTATING DAIRY ANIMALS FORAGE IS A FOOD CROP.

9 (f) (I) "MARIJUANA" HAS THE SAME MEANING AS SET FORTH IN  
10 SECTION 16 (2)(f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

11 (II) "MARIJUANA" INCLUDES A USABLE FORM OF MARIJUANA USED  
12 FOR MEDICAL USE, AS THOSE TERMS ARE DEFINED IN SECTION 14 (1) OF  
13 ARTICLE XVIII OF THE COLORADO CONSTITUTION.

14 (g) "POINT OF COMPLIANCE" MEANS A POINT, AS IDENTIFIED BY  
15 THE PERSON THAT TREATS THE WATER, IN THE RECLAIMED DOMESTIC  
16 WASTEWATER TREATMENT PROCESS OR THE RECLAIMED DOMESTIC  
17 WASTEWATER TRANSPORTATION PROCESS, THAT OCCURS AFTER ALL  
18 TREATMENT HAS BEEN COMPLETED BUT BEFORE DILUTION AND BLENDING  
19 OF THE WATER HAS OCCURRED.

20 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS  
21 FOLLOWS:

22 (a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:

23 (I) EVAPORATIVE INDUSTRIAL PROCESSES;

24 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;

25 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;

26 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;

27 (V) ZOO OPERATIONS;

1 (VI) IRRIGATION OF CROPS THAT ARE NOT FOOD CROPS; AND  
2 (VII) SILVICULTURE.  
3 (b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:  
4 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC  
5 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1  
6 STANDARD;  
7 (II) WASHWATER APPLICATIONS;  
8 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED  
9 ACCESS;  
10 (IV) COMMERCIAL LAUNDRIES;  
11 (V) AUTOMATED VEHICLE WASHING;  
12 (VI) MANUAL, NONPUBLIC VEHICLE WASHING;  
13 (VII) NONRESIDENTIAL FIRE PROTECTION; AND  
14 (VIII) MARIJUANA CULTIVATION.  
15 (c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:  
16 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC  
17 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1  
18 STANDARD AND THE CATEGORY 2 STANDARD;  
19 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY  
20 RESIDENTS; AND  
21 (III) RESIDENTIAL FIRE PROTECTION.  
22 (3) IN ADDITION TO COMPLYING WITH THE CATEGORY 2 STANDARD  
23 PURSUANT TO SUBSECTION (2)(b)(VIII) OF THIS SECTION, REGARDLESS OF  
24 WHETHER THE USE IS FOR MARIJUANA PRODUCED FOR COMMERCIAL OR  
25 NONCOMMERCIAL USE, RECLAIMED DOMESTIC WASTEWATER MAY BE USED  
26 FOR MARIJUANA CULTIVATION ONLY IF THE USE MEETS THE WATER  
27 QUALITY STANDARDS FOR COMMERCIAL CROPS SET FORTH IN THE FEDERAL

1 "FDA FOOD SAFETY MODERNIZATION ACT", PUB.L. 111-353, AS  
2 AMENDED. IN PROMULGATING RULES FOR THE CATEGORY 2 STANDARD AT  
3 THE POINT OF COMPLIANCE FOR USE OF RECLAIMED DOMESTIC  
4 WASTEWATER FOR MARIJUANA CULTIVATION, THE COMMISSION SHALL NOT  
5 PROMULGATE ANY RULE THAT IS MORE STRINGENT THAN THE RELEVANT  
6 STANDARDS SET FORTH IN THE FEDERAL "FDA FOOD SAFETY  
7 MODERNIZATION ACT", PUB.L. 111-353, AS AMENDED.

8 (4) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION  
9 SHALL PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.

10 (b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION,  
11 THE COMMISSION:

12 (I) MAY CREATE NEW CATEGORIES OF WATER QUALITY  
13 STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION;

14 AND

15 (II) MAY RECATEGORIZE ANY OF THE USES SET FORTH IN  
16 SUBSECTION (2) OF THIS SECTION TO A LESS STRINGENT CATEGORY OF  
17 WATER QUALITY STANDARD.

18 (c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES  
19 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF  
20 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS  
21 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY  
22 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC  
23 WASTEWATER.

24 (5) THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC  
25 WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET  
26 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY  
27 THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE

1 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE  
2 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL  
3 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

4 **SECTION 4.** In Colorado Revised Statutes, 25-8-308, **amend** (1)  
5 introductory portion and (1)(h) as follows:

6 **25-8-308. Additional authority and duties of division -**  
7 **penalties.** (1) In addition to the authority specified elsewhere in this  
8 ~~article~~ ARTICLE 8, the division has the power to:

9 (h) Implement a program, in accordance with SECTION 25-8-205.7  
10 AND rules and orders of the commission, for the reuse of reclaimed  
11 domestic wastewater for purposes other than drinking.

12 **SECTION 5. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly (August  
15 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within such period, then the act, item, section, or part will not take effect  
19 unless approved by the people at the general election to be held in  
20 November 2018 and, in such case, will take effect on the date of the  
21 official declaration of the vote thereon by the governor.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**BILL D**

LLS NO. 18-0228.01 Jennifer Berman x3286

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Donovan and Coram**, Baumgardner, Jones, Sonnenberg

**HOUSE SPONSORSHIP**

**Esgar and Willett**, Arndt, Hansen, Saine

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**Senate Committees**

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC**  
102 **WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING**  
103 **RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR**  
104 **INDUSTRIAL HEMP CULTIVATION.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Water Resources Review Committee.** The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. **Section 3** of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds industrial hemp cultivation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. **Sections 1, 2, and 4** make conforming amendments.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-103, **amend**  
3 (17.5) as follows:

4 **25-8-103. Definitions.** As used in this article 8, unless the context  
5 otherwise requires:

6 (17.5) "Reclaimed domestic wastewater" means wastewater that  
7 has received treatment IN ACCORDANCE WITH SECTION 25-8-205.7 AND  
8 that enables the wastewater to meet the requirements, prohibitions,  
9 standards, and concentration limitations adopted by the commission for  
10 subsequent reuses other than drinking.

11 **SECTION 2.** In Colorado Revised Statutes, 25-8-205, **amend**  
12 (1)(f) as follows:

13 **25-8-205. Control regulations.** (1) The commission may  
14 promulgate control regulations for the following purposes:

15 (f) IN ACCORDANCE WITH SECTION 25-8-205.7, to describe  
16 requirements, prohibitions, standards, and concentration limitations on the  
17 reuse of reclaimed domestic wastewater for purposes other than drinking  
18 that will protect public health and encourage the reuse of reclaimed  
19 domestic wastewater;

1           **SECTION 3.** In Colorado Revised Statutes, **add 25-8-205.7** as  
2 follows:

3           **25-8-205.7. Control regulations for reuse of reclaimed**  
4 **domestic wastewater - definitions - rules.** (1) AS USED IN THIS SECTION,  
5 UNLESS THE CONTEXT OTHERWISE REQUIRES:

6           (a) "CATEGORY 1 STANDARD" MEANS A WATER QUALITY  
7 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

8           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
9 SECONDARY TREATMENT WITH DISINFECTION; AND

10           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
11 THE E. COLI AND TOTAL SUSPENDED SOLIDS STANDARDS PROMULGATED BY  
12 THE COMMISSION FOR CATEGORY 1 WATER.

13           (b) "CATEGORY 2 STANDARD" MEANS A WATER QUALITY  
14 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

15           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
16 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

17           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
18 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE  
19 COMMISSION FOR CATEGORY 2 WATER.

20           (c) "CATEGORY 3 STANDARD" MEANS A WATER QUALITY  
21 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

22           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
23 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

24           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
25 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE  
26 COMMISSION FOR CATEGORY 3 WATER.

27           (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE



1 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND  
2 ANIMALS.

3 (e) (I) "FOOD CROP" MEANS A CROP PRODUCED FOR DIRECT HUMAN  
4 CONSUMPTION OR A TREE THAT PRODUCES NUTS OR FRUIT INTENDED FOR  
5 DIRECT HUMAN CONSUMPTION.

6 (II) "FOOD CROP" DOES NOT INCLUDE:

7 (A) A CROP PRODUCED FOR ANIMAL CONSUMPTION ONLY; EXCEPT  
8 THAT A CROP PRODUCED WHERE LACTATING DAIRY ANIMALS FORAGE IS A  
9 FOOD CROP; AND

10 (B) INDUSTRIAL HEMP.

11 (f) "INDUSTRIAL HEMP" HAS THE SAME MEANING AS SET FORTH IN  
12 SECTION 35-61-101 (7).

13 (g) "POINT OF COMPLIANCE" MEANS A POINT, AS IDENTIFIED BY  
14 THE PERSON THAT TREATS THE WATER, IN THE RECLAIMED DOMESTIC  
15 WASTEWATER TREATMENT PROCESS OR THE RECLAIMED DOMESTIC  
16 WASTEWATER TRANSPORTATION PROCESS, THAT OCCURS AFTER ALL  
17 TREATMENT HAS BEEN COMPLETED BUT BEFORE DILUTION AND BLENDING  
18 OF THE WATER HAS OCCURRED.

19 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS  
20 FOLLOWS:

21 (a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:

22 (I) EVAPORATIVE INDUSTRIAL PROCESSES;

23 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;

24 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;

25 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;

26 (V) ZOO OPERATIONS;

27 (VI) IRRIGATION OF INDUSTRIAL HEMP AND OTHER CROPS THAT

1 ARE NOT FOOD CROPS; AND  
2 (VII) SILVICULTURE.  
3 (b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:  
4 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC  
5 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1  
6 STANDARD;  
7 (II) WASHWATER APPLICATIONS;  
8 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED  
9 ACCESS;  
10 (IV) COMMERCIAL LAUNDRIES;  
11 (V) AUTOMATED VEHICLE WASHING;  
12 (VI) MANUAL, NONPUBLIC VEHICLE WASHING; AND  
13 (VII) NONRESIDENTIAL FIRE PROTECTION.  
14 (c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:  
15 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC  
16 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1  
17 STANDARD AND THE CATEGORY 2 STANDARD;  
18 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY  
19 RESIDENTS; AND  
20 (III) RESIDENTIAL FIRE PROTECTION.  
21 (3) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION  
22 SHALL PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.  
23 (b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION,  
24 THE COMMISSION:  
25 (I) MAY CREATE NEW CATEGORIES OF WATER QUALITY  
26 STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION;  
27 AND

1 (II) MAY RECATEGORIZE ANY OF THE USES SET FORTH IN  
2 SUBSECTION (2) OF THIS SECTION TO A LESS STRINGENT CATEGORY OF  
3 WATER QUALITY STANDARD.

4 (c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES  
5 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF  
6 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS  
7 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY  
8 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC  
9 WASTEWATER.

10 (4) THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC  
11 WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET  
12 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY  
13 THE COMMISSION PURSUANT TO SUBSECTION (3) OF THIS SECTION IF THE  
14 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE  
15 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL  
16 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

17 **SECTION 4.** In Colorado Revised Statutes, 25-8-308, **amend** (1)  
18 introductory portion and (1)(h) as follows:

19 **25-8-308. Additional authority and duties of division -**  
20 **penalties.** (1) In addition to the authority specified elsewhere in this  
21 ~~article~~ ARTICLE 8, the division has the power to:

22 (h) Implement a program, in accordance with SECTION 25-8-205.7  
23 AND rules and orders of the commission, for the reuse of reclaimed  
24 domestic wastewater for purposes other than drinking.

25 **SECTION 5. Act subject to petition - effective date.** This act  
26 takes effect at 12:01 a.m. on the day following the expiration of the  
27 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
2 referendum petition is filed pursuant to section 1 (3) of article V of the  
3 state constitution against this act or an item, section, or part of this act  
4 within such period, then the act, item, section, or part will not take effect  
5 unless approved by the people at the general election to be held in  
6 November 2018 and, in such case, will take effect on the date of the  
7 official declaration of the vote thereon by the governor.

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**BILL E**

LLS NO. 18-0229.01 Jennifer Berman x3286

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Donovan and Coram**, Baumgardner, Sonnenberg

**HOUSE SPONSORSHIP**

**Hansen and Arndt**, Esgar

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Senate Committees

House Committees

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**A BILL FOR AN ACT**

101      **CONCERNING AN EXPANSION OF THE DURATION FOR WHICH THE**  
102            **COLORADO WATER RESOURCES AND POWER DEVELOPMENT**  
103            **AUTHORITY MAY MAKE A LOAN UNDER THE AUTHORITY'S**  
104            **REVOLVING LOAN PROGRAMS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Water Resources Review Committee.** Pursuant to the federal clean water act and the federal "Safe Water Drinking Act", the Colorado water resources and power development authority (authority) makes loans

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

under its water pollution control revolving fund and its drinking water revolving fund. Under state law, the duration of any water pollution control loan made by the authority must not exceed 20 years after project completion; however, the federal clean water act now allows for loans up to the lesser of 30 years or the projected useful life of the project, as determined by the state. The bill removes the 20-year limitation on water pollution control loans and authorizes the authority to make loans in compliance with the clean water act and the "Safe Water Drinking Act".

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-95-103, **amend**  
3 the introductory portion and (4.5) as follows:

4 **37-95-103. Definitions.** As used in this ~~article~~ ARTICLE 95:

5 (4.5) "Clean water act" means the "Federal Water Pollution  
6 Control Act Amendments of 1972", Pub.L. 92-500, ~~and any act~~  
7 ~~amendatory or supplemental thereto as of April 4, 1988~~ AS AMENDED.

8 **SECTION 2.** In Colorado Revised Statutes, 37-95-107.6, **amend**  
9 (3)(a) as follows:

10 **37-95-107.6. Creation and administration of water pollution**  
11 **control revolving fund.** (3) (a) The authority may make and contract to  
12 make loans to governmental agencies in accordance with and subject to  
13 the provisions of this section to finance the cost of wastewater treatment  
14 system projects that are on the water pollution control project eligibility  
15 list established pursuant to subsection (4) of this section and any other  
16 projects authorized under the clean water act and that the governmental  
17 agencies may lawfully undertake or acquire under state law, including ~~but~~  
18 ~~not limited to~~, applicable provisions of the "Colorado Water Quality  
19 Control Act", article 8 of title 25, ~~C.R.S.~~, and for which the governmental  
20 agencies are authorized by law to borrow money. The loans may be made  
21 subject to such terms and conditions as the authority shall determine to be

1 consistent with the purposes ~~thereof~~ OF THE LOANS. Each loan by the  
2 authority and the terms and conditions ~~thereof shall be~~ OF THE LOAN IS  
3 subject to financial analysis by the division of local government of the  
4 department of local affairs. ~~Such~~ THE financial analysis ~~shall~~ MUST  
5 include an analysis of the capacity to repay a loan and the need for  
6 financial assistance. Each loan to a local governmental agency ~~shall~~ MUST  
7 be evidenced by notes, bonds, or other obligations ~~thereof~~ issued BY THE  
8 LOCAL GOVERNMENTAL AGENCY to the authority. In the case of each  
9 governmental agency, notes and bonds to be issued to the authority by the  
10 local governmental agency shall be authorized and issued as provided by  
11 law for the issuance of notes and bonds by the governmental agency, may  
12 be sold at private sale to the authority at any price, whether or not less  
13 than par value, and ~~shall~~ MUST be subject to redemption prior to maturity  
14 at such times and at such prices as the authority and governmental agency  
15 may agree. Each loan to a local governmental agency and the notes,  
16 bonds, or other obligations thereby issued ~~shall~~ MUST bear interest at ~~such~~  
17 A rate or rates per annum at or below THE market interest rate and ~~shall~~  
18 MUST be for ~~such terms not to exceed twenty years after project~~  
19 ~~completion~~ as THAT ARE AGREED UPON BY the authority and the  
20 governmental agency ~~may agree~~ AND ARE IN COMPLIANCE WITH THE  
21 CLEAN WATER ACT.

22 **SECTION 3.** In Colorado Revised Statutes, 37-95-107.8, **amend**  
23 (3)(a)(III) as follows:

24 **37-95-107.8. Creation and administration of drinking water**  
25 **revolving fund.** (3) (a) (III) All notes, bonds, or other obligations  
26 evidencing a loan from the authority may be sold at private sale to the  
27 authority at any price, whether or not less than par value. The

1 denominations, the times for payment of principal and interest, and the  
2 provisions for redemption prior to maturity of ~~such~~ THE notes, bonds, or  
3 other obligations are as agreed by the authority and the borrower. Each  
4 loan to a governmental agency or private nonprofit entity and the notes,  
5 bonds, or other obligations thereby issued must bear interest at ~~such~~ A rate  
6 or rates per annum at or below THE market interest rate and be for ~~such~~  
7 terms ~~not to exceed twenty years after project completion~~ as THAT ARE  
8 AGREED UPON BY the authority and the borrower ~~may agree; except that,~~  
9 ~~if the source of the loaned funds is a grant from the United States, the~~  
10 ~~loan term may be extended in accordance with the terms of~~ AND ARE IN  
11 COMPLIANCE WITH the safe drinking water act. ~~providing for extended~~  
12 ~~loan terms.~~

13           **SECTION 4. Act subject to petition - effective date -**  
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
15 the expiration of the ninety-day period after final adjournment of the  
16 general assembly (August 8, 2018, if adjournment sine die is on May 9,  
17 2018); except that, if a referendum petition is filed pursuant to section 1  
18 (3) of article V of the state constitution against this act or an item, section,  
19 or part of this act within such period, then the act, item, section, or part  
20 will not take effect unless approved by the people at the general election  
21 to be held in November 2018 and, in such case, will take effect on the  
22 date of the official declaration of the vote thereon by the governor.

23           (2) This act applies to loans made on or after the applicable  
24 effective date of this act.