

CHAPTER 304

WATER AND IRRIGATION

SENATE BILL 93-260

BY SENATORS Ament, Norton, Bishop, and Cassidy;
also REPRESENTATIVES Foster, Eisenach, and George.

AN ACT**CONCERNING REVIEW BY THE STATE ENGINEER OF PLANS FOR GRAVEL PIT SUBSTITUTE WATER SUPPLIES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

SECTION 1. Legislative declaration. It is the intent of the general assembly that nothing in this act shall in any way jeopardize the ability of the state of Colorado to meet its full obligation under any interstate compact or court decree or diminish the quantities of water rightfully belonging to any downstream appropriator within the state of Colorado or any downstream state.

SECTION 2. 37-90-107 (6) (c) and (6) (d), Colorado Revised Statutes, 1990 Repl. Vol., are amended to read:

37-90-107. Application for use of ground water - publication of notice - conditional permit - hearing on objections - well permits. (6) (c) Any person who has reactivated or reactivates open mining operations which exposed designated ground water to the atmosphere but which ceased activity prior to January 1, 1981, shall obtain a well permit and shall apply for approval of a REPLACEMENT plan ~~for augmentation~~ or a plan of substitute supply pursuant to paragraph (a) of this subsection (6).

(d) In addition to the well permit filing fee required by section 37-90-116, the commission shall collect the following fees:

(I) For persons who exposed ground water to the atmosphere on or after January 1, 1981, but prior to July 15, 1989, ~~two hundred ten dollars if such plan includes ten acres or less of exposed ground water surface area or one thousand fifty dollars if~~

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

~~such plan includes more than ten acres of exposed ground water surface area~~ ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS; except that, if such plan is filed prior to July 15, 1990, as required by subparagraph (II) of paragraph (a) of this subsection (6), the filing fee shall be seventy dollars if such plan includes ten acres or less of exposed ground water surface area or three hundred fifty dollars if such plan includes more than ten acres of exposed ground water surface area.

(II) For persons who expose ground water to the atmosphere on or after July 15, 1989, ~~seventy dollars if the plan includes ten acres or less of exposed ground water surface area or three hundred fifty dollars if the plan includes more than ten acres of exposed ground water surface area~~ ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED. IN THE CASE OF NEW MINING OPERATIONS, SUCH FEE SHALL COVER TWO YEARS OF OPERATION OF THE PLAN.

(III) For persons who reactivated or who reactivate mining operations which ceased activity prior to January 1, 1981, ~~seventy dollars if the plan includes ten acres or less of exposed designated ground water surface area or three hundred fifty dollars if the plan includes more than ten acres of exposed designated ground water surface area~~ AND WHO ENLARGE THE SURFACE AREA OF ANY GRAVEL PIT LAKE BEYOND THE AREA IT COVERED BEFORE THE CESSATION OF ACTIVITY, ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS.

(IV) FOR PERSONS WHO REQUEST RENEWAL OF AN APPROVED SUBSTITUTE WATER SUPPLY PLAN PRIOR TO THE EXPIRATION DATE OF THE PLAN, TWO HUNDRED SEVENTEEN DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED.

(V) FOR PERSONS WHOSE APPROVED SUBSTITUTE WATER SUPPLY PLAN HAS EXPIRED AND WHO SUBMIT A SUBSEQUENT PLAN, ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED. AN APPROVED PLAN SHALL BE CONSIDERED EXPIRED IF THE APPLICANT HAS NOT APPLIED FOR RENEWAL BEFORE THE EXPIRATION DATE OF THE PLAN. THE STATE ENGINEER SHALL NOTIFY THE APPLICANT IN WRITING IF THE PLAN IS CONSIDERED EXPIRED.

(VI) FOR PERSONS WHOSE PROPOSED SUBSTITUTE WATER SUPPLY PLAN WAS DISAPPROVED AND WHO SUBMIT A SUBSEQUENT PLAN, ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED. THE STATE ENGINEER SHALL NOTIFY THE APPLICANT IN WRITING OF DISAPPROVAL OF A PLAN.

SECTION 3. 37-90-137 (11) (e) and (11) (f), Colorado Revised Statutes, 1990 Repl. Vol., are amended to read:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits. (11) (e) In addition to the well permit filing fee required by subsection (2) of this section, the state engineer shall collect the following fees:

(I) For persons who exposed ground water to the atmosphere on or after January 1, 1981, but prior to July 15, 1989, ~~two hundred ten dollars if such plan includes ten acres or less of exposed ground water surface area or one thousand fifty dollars if such plan includes more than ten acres of exposed ground water surface area~~ ONE

THOUSAND THREE HUNDRED FORTY-THREE DOLLARS; except that, if such plan is filed prior to July 15, 1990, as required by subparagraph (II) of paragraph (a) of this subsection (11), the filing fee shall be seventy dollars if such plan includes ten acres or less of exposed ground water surface area or three hundred fifty dollars if such plan includes more than ten acres of exposed ground water surface area.

(II) For persons who expose ground water to the atmosphere on or after July 15, 1989, ~~seventy dollars if the plan includes ten acres or less of exposed ground water surface area or three hundred fifty dollars if the plan includes more than ten acres of exposed ground water surface area~~ ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED. IN THE CASE OF NEW MINING OPERATIONS, SUCH FEE SHALL COVER TWO YEARS OF OPERATION OF THE PLAN.

(III) For persons who reactivated or who ~~reactivates~~ REACTIVATE mining operations which ceased activity prior to January 1, 1981, ~~seventy dollars if the plan includes ten acres or less of exposed ground water surface area or three hundred fifty dollars if the plan includes more than ten acres of exposed ground water surface area~~ AND ENLARGE THE SURFACE AREA OF ANY GRAVEL PIT LAKE BEYOND THE AREA IT COVERED BEFORE THE CESSATION OF ACTIVITY, ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS.

(IV) FOR PERSONS WHO REQUEST RENEWAL OF AN APPROVED SUBSTITUTE WATER SUPPLY PLAN PRIOR TO THE EXPIRATION DATE OF THE PLAN, TWO HUNDRED SEVENTEEN DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED.

(V) FOR PERSONS WHOSE APPROVED SUBSTITUTE WATER SUPPLY PLAN HAS EXPIRED AND WHO SUBMIT A SUBSEQUENT PLAN, ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED. AN APPROVED PLAN SHALL BE CONSIDERED EXPIRED IF THE APPLICANT HAS NOT APPLIED FOR RENEWAL BEFORE THE EXPIRATION DATE OF THE PLAN. THE STATE ENGINEER SHALL NOTIFY THE APPLICANT IN WRITING IF THE PLAN IS CONSIDERED EXPIRED.

(VI) FOR PERSONS WHOSE PROPOSED SUBSTITUTE WATER SUPPLY PLAN WAS DISAPPROVED AND WHO SUBMIT A SUBSEQUENT PLAN, ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS REGARDLESS OF THE NUMBER OF ACRES EXPOSED. THE STATE ENGINEER SHALL NOTIFY THE APPLICANT IN WRITING OF DISAPPROVAL OF A PLAN.

(f) Excluding the well permit filing fee required by subsection (2) of this section, all fees collected with AN APPLICATION FOR APPROVAL OF a plan for augmentation or a plan of substitute supply shall be credited to the gravel pit lakes augmentation fund, which fund is hereby created, and shall be used by the state engineer for the implementation and enforcement of the water augmentation program. The general assembly shall make annual appropriations from the gravel pit lakes augmentation fund for such purposes, and no moneys from the general fund shall be expended or appropriated for such purposes.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the gravel pit lakes augmentation cash fund not otherwise appropriated, to the water resources division, for the fiscal year beginning July 1, 1993, the sum of fifty-nine thousand seven hundred forty-two

dollars (\$59,742), or so much thereof as may be necessary, for the implementation of this act.

(2) Implementation of this act during the fiscal year beginning July 1, 1994, will require an appropriation from the gravel pit lakes augmentation cash fund for said fiscal year in an amount estimated to be fifty-nine thousand seven hundred forty-two dollars (\$59,742).

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993