

CHAPTER 150

WATER AND IRRIGATION

SENATE BILL 94-054

BY SENATORS Ament, Mutzebaugh, and Schroeder;
also REPRESENTATIVES Jerke, Eisenach, and Shoemaker.

AN ACT**CONCERNING CONDITIONAL WATER RIGHTS.**

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

SECTION 1. 37-92-102 (3), Colorado Revised Statutes, 1990 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

37-92-102. Legislative declaration - basic tenets of Colorado water law. (3) (c.5) NOTWITHSTANDING SECTION 37-92-103 (6), AS TO ANY APPLICATION FILED BY THE BOARD ON OR AFTER JULY 1, 1994, THE BOARD MAY ONLY ACQUIRE CONDITIONAL WATER RIGHTS OR CHANGE CONDITIONAL WATER RIGHTS TO INSTREAM FLOW USES WHEN ALL OF THE FOLLOWING CONDITIONS ARE SATISFIED:

(I) THE CONDITIONAL WATER RIGHTS ARE LOCATED IN THE YAMPA RIVER BASIN AND WILL BE USED IN THE RECOVERY OF SPECIES THAT HAVE BEEN DETERMINED TO BE THREATENED OR ENDANGERED PURSUANT TO THE FEDERAL "ENDANGERED SPECIES ACT", 16 U.S.C. SEC. 1533;

(II) THE CONDITIONAL WATER RIGHTS ARE A RECOGNIZED COMPONENT OF AN ONGOING RECOVERY PROGRAM APPROVED BY THE FEDERAL GOVERNMENT TO OFFSET JEOPARDY TO A LISTED SPECIES OR ADVERSE MODIFICATION TO CRITICAL HABITAT CAUSED BY WATER PROJECT DEPLETIONS;

(III) THE BOARD HAS DETERMINED THAT THE ACQUISITION OF CONDITIONAL WATER RIGHTS WILL PROVIDE BENEFITS TO THE RECOVERY PROGRAM THAT WOULD NOT BE AVAILABLE THROUGH INITIAL APPROPRIATION BY THE BOARD; AND

(IV) A CHANGE OF SUCH CONDITIONAL WATER RIGHTS IS SUBJECT TO ALL OTHER PROVISIONS OF COLORADO LAW.

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

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 20, 1994