

CHAPTER 206

WATER AND IRRIGATION

SENATE BILL 01-157

BY SENATOR(S) Dyer (Durango), Evans, Arnold, Cairns, Chlouber, Dennis, Entz, Epps, Gordon, Hagedorn, Hernandez, Hillman, Matsunaka, May, Musgrave, Phillips, Reeves, Taylor, and Teck;
also REPRESENTATIVE(S) Hoppe, Jameson, Marshall, Mitchell, Plant, Rippy, Smith, and Spradley.

AN ACT

CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND MAKING APPROPRIATIONS IN CONNECTION THEREWITH.

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

SECTION 1. Water project loan authorizations from the Colorado water conservation board construction fund. (1) Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the Colorado water conservation board construction fund to enable the construction of the following water resources projects or the purchase of water rights with the following priority:

Priority	Borrower-Project	Loan Amount
(a)	Dolores Water Conservancy District - WETPACK	\$7,260,000
(b)	Colorado State Parks & Outdoor Recreation - Jackson Lake Dam Rehabilitation	\$1,700,000
(c)	Tunnel Water Company Laramie/Poudre Tunnel Rehabilitation	\$2,080,000
Total		\$11,040,000

(2) The Colorado water conservation board may make loans for the construction of the projects specified in subsection (1) of this section from such moneys as are or may hereafter become available to the Colorado water conservation board construction fund. Said loans shall be in the amounts listed in subsection (1) of this section plus or minus such amounts, if any, as may be justified by reason of ordinary

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

fluctuations in construction costs as indicated by the engineering cost indices applicable to the types of construction required for each project or as may be justified by reason of changes in the plans for a project due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by regulatory agencies, or changes in material quantities beyond contract limits.

(3) Pursuant to section 37-60-120 (1), Colorado Revised Statutes, the board shall require such terms and conditions in such contracts as will ensure repayment of funds made available by it. The board shall not disburse any moneys for any loan authorized by subsection (1) of this section unless and until it is satisfied, at its sole discretion, that the recipient of any such loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1) of this section.

SECTION 2. Water project loan authorizations from the severance tax trust fund perpetual base account. (1) Pursuant to section 39-29-109 (1) (a) (I), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the severance tax trust fund perpetual base account to enable the construction of the following water resources projects with the following priority:

Priority	Borrower - Project	Loan Amount
(a)	Town of Monument - Monument Dam Rehabilitation	\$ 2,081,000
(b)	Colorado Water Protective and Development Association - Purchase of Bessemer Ditch Water Shares	\$ 205,000
(c)	Kenosha Trout Club Purchase of Augmentation Water	\$ 551,250
Total		\$ 2,837,250

(2) The Colorado water conservation board may make loans for the construction of the projects specified in subsection (1) of this section from such moneys as are or may hereafter become available to the severance tax trust fund perpetual base account. Said loans shall be in the amounts listed in subsection (1) of this section plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices applicable to the types of construction required for each project or as may be justified by reason of changes in the plans for a project due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by regulatory agencies, or changes in material quantities beyond contract limits.

(3) Pursuant to section 37-60-120 (1), Colorado Revised Statutes, the board shall require such terms and conditions in such contracts as will ensure repayment of funds made available by it. The board shall not disburse any moneys for any loan authorized by subsection (1) of this section unless and until it is satisfied, at its sole discretion, that the recipient of any such loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1) of this section.

SECTION 3. Increases to prior water project loan authorizations from the Colorado water conservation board construction fund. Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys to enable or continue the construction of the following previously authorized water resources projects:

Prior Borrower - Project	Prior Authority	Prior Amount	Increase	Revised Amount
Columbine Ranches Property Owners Association Purchase of Augmentation Water	SB 99-173	\$305,250	\$ 93,750	\$399,000
Totals		\$305,250	\$ 93,750	\$399,000

SECTION 4. Decreases to prior water project loan authorizations from the Colorado water conservation board construction fund.

Prior Borrower - Project	Prior Authority	Prior Amount	Decrease	Amount Remaining
City of Craig - Elkhead Reservoir Rehabilitation Project	SB 86-27	\$ 750,000	\$ 750,000	\$0
City of Fort Collins and Larimer County - Dry Creek Flood Control Project	SB 97-008	\$ 920,000	\$ 920,000	\$0
Town of Minturn - Bolts Lake Dam and Ditch Rehab.	SB 96-153	\$ 360,000	\$ 360,000	\$0
San Luis Valley Canal Co. - Diversion Structure Rehabilitation	SB 97-008	\$ 188,000	\$ 188,000	\$0
Totals		\$2,218,000	\$2,218,000	\$0

SECTION 5. Satellite monitoring system maintenance - appropriation.

(1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the division of water resources, for the fiscal year beginning July 1, 2001, the sum of three hundred ninety-eight thousand dollars (\$398,000), or so much thereof as may be necessary, for the maintenance of the satellite monitoring system established and operated pursuant to section 37-80-102 (10), Colorado Revised Statutes.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, for the fiscal year beginning July 1, 2001, the sum of one hundred seventy-five thousand dollars (\$175,000), or

so much thereof as may be necessary, for the installation and maintenance of stream gages to monitor and administer Colorado water conservation board-decreed instream flow water rights in conjunction with the satellite monitoring system.

(3) The moneys appropriated in subsections (1) and (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 6. Dual water system study - appropriation. (1) The Colorado water conservation board is hereby authorized to participate in a study to assess the benefits and costs of pressurized dual water systems in Colorado, concentrating on northeastern Colorado, particularly water districts 1 through 6 in Larimer and Weld counties. The purpose of the study will be to evaluate raw water delivery for outside irrigation, thus reducing the summer demand on treated water systems. The study will provide an evaluation of two agricultural water providers' potential for dual water system development.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the Colorado institute for irrigation management - Colorado state university, the sum of one hundred thirty-six thousand one hundred thirty-one dollars (\$136,131), or so much thereof as may be necessary, for evaluating the raw water delivery systems for outside irrigation in northeastern Colorado.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 7. Managed groundwater re-regulation demonstration project - appropriation. (1) The Colorado water conservation board is hereby authorized to participate in a demonstration project to assess the possibility of a public/private partnership for groundwater recharge management on the lower South Platte river. The purposes of the project are to create a perpetual state interest in water projects that will facilitate water rights administration along the South Platte river, and benefit the state in meeting its needs for species of concern and its commitments for threatened and endangered species in the Platte river basin. The scope of work for the project shall be developed by the South Platte Lower River Group composed of water users, governmental agencies, and local citizen groups interested in the South Platte Basin, in consultation with the Colorado water conservation board.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the South Platte Lower River Group, the sum of one hundred fifty thousand dollars (\$150,000), or so much thereof as may be necessary, for developing a managed groundwater recharge demonstration project on the lower South Platte river.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 8. South Platte river decision support system - appropriation. (1) The Colorado water conservation board is hereby authorized to commence the

design of a decision support system for the South Platte river by retaining a contractor to initiate development of the necessary databases and to collect the required water resources information for development of the surface and groundwater models, consumptive use models, and overall water budget model associated with the decision support system.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, for the fiscal year beginning July 1, 2001, the sum of two million dollars (\$2,000,000), or so much thereof as may be necessary, for the necessary data collection and design of a decision support system for the South Platte river.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 9. Lower South Platte water management and storage site study - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, for the fiscal year beginning July 1, 2001, the sum of five hundred thousand dollars (\$500,000), or so much thereof as may be necessary, for the board to contract with a consulting firm to complete a feasibility study of the project alternatives identified in the project's reconnaissance study. The feasibility study will determine the technical, financial, and economic feasibility of potential water management facilities and water management options on the lower South Platte river in Colorado. Upon approval of the feasibility study, and at the sole discretion of the Colorado water conservation board, a consulting firm may also be contracted for the final design of the identified preferred project alternative. The purpose of the project is to facilitate Colorado's management of South Platte flows as they relate to groundwater recharge, in-state beneficial uses, South Platte river compact administration, benefits for Colorado biological species of concern, and participation in an endangered species program being developed pursuant to the Platte River cooperative agreement.

(2) The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

SECTION 10. Arkansas valley pipeline project - appropriation. (1) The Colorado water conservation board is hereby authorized to participate in a reconnaissance and feasibility study for a proposed raw water pipeline project from Pueblo reservoir to the City of Lamar along the Arkansas river. The purposes of the investigation will be to evaluate the costs and benefits of a water supply line to service the agricultural water users and smaller Arkansas valley communities below Pueblo reservoir. The scope of work for the planning studies shall be developed by the southeastern Colorado water conservancy district in consultation with the Colorado water conservation board and a water works committee made up of cities, towns, and private water user entities in the Arkansas valley.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the

southeastern Colorado water conservancy district water activity enterprise, the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, to conduct a reconnaissance and feasibility study of the Arkansas valley pipeline project.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 11. Consolidated water resources information center - appropriation. In addition to any other appropriations, the Colorado water conservation board is hereby appropriated sixty thousand dollars (\$60,000) from the Colorado water conservation board construction fund to continue operation of the consolidated water resources information center. The moneys appropriated in this section shall remain available for the designated purposes until they are exhausted.

SECTION 12. Elkhead reservoir environmental compliance - appropriation. (1) The Colorado water conservation board is hereby authorized to participate in environmental studies and investigations regarding water development and the recovery of four endangered fish species in the Yampa river basin. The studies will evaluate a plan to provide approximately 7,000 acre-feet of water for the endangered fish species from new and existing sources, one component of which would be the enlargement of Elkhead reservoir in Moffat county. The studies will specifically analyze the consequences of enlarging Elkhead reservoir for the purpose of obtaining necessary construction and environmental compliance permits.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, for the fiscal year beginning July 1, 2001, the sum of five hundred thousand dollars (\$500,000), or so much thereof as may be necessary, to participate in obtaining the necessary construction and environmental compliance permits, including the necessary feasibility studies, associated with the enlargement of Elkhead reservoir in Moffat county.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until June 30, 2004, or until the studies are completed, whichever event takes place first.

SECTION 13. Drought planning survey - appropriation. (1) The Colorado water conservation board is hereby authorized to contract with responsible contractors for the purpose of preparing a statewide water user survey to collect information regarding demographics, growth, water supplies, drought plans, water supply depletions, water use limitations, and drought preparedness. The survey will result in a report containing a database and expert analysis of the information listing recommendations addressing future drought planning needs. The survey is to be conducted in the year 2001, with the final report completed by July 31, 2002.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of three hundred fifty thousand dollars (\$350,000), or so much thereof as may be necessary, to conduct a statewide drought planning survey.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 14. Floodplain mapping program - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, for the fiscal year beginning July 1, 2001, the sum of two hundred fifty thousand dollars (\$250,000), or so much thereof as may be necessary, for the board to contract with a consulting firm or firms, to complete new or revised floodplain mapping for several counties and communities along important stream reaches in Colorado. Due to unprecedented statewide growth and development pressure along floodplain areas, the floodplain information will be used in critical land use decisions and hazard risk assessments.

(2) The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the moneys are exhausted.

SECTION 15. Continuation of Cherry Creek reservoir flood safety investigation. (1) In addition to any other appropriation, the Colorado water conservation board is hereby appropriated seventy-five thousand dollars (\$75,000) from the Colorado water conservation board construction fund to continue the Cherry Creek reservoir flood safety investigation with local governments in Douglas and Arapahoe counties, the U.S. weather service, the U.S. Army corps of engineers, and other state agencies in the impact analysis of the probable maximum flood on Cherry Creek reservoir as identified by the probable maximum precipitation study of Cherry Creek reservoir. The project is located upstream of the Denver metropolitan area.

(2) The amounts appropriated in this section are in addition to amounts appropriated previously for the Cherry Creek reservoir flood safety investigation. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

SECTION 16. Continuation of the Alamosa river watershed restoration project. (1) In addition to any other appropriation, the Colorado water conservation board is hereby appropriated one hundred fifty thousand dollars (\$150,000) from the Colorado water conservation board construction fund to continue the Alamosa river watershed project with the Alamosa-La Jara water conservancy district or the Alamosa river watershed restoration foundation, in the construction of a streambank stabilization and riparian habitat improvement project as identified in "the conceptual design for the Alamosa river" study. The project is located on the Alamosa river from Terrace reservoir to highway 285 near La Jara, in Conejos county, Colorado.

(2) The amounts appropriated in this section are in addition to amounts appropriated previously for the Alamosa river watershed project. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

SECTION 17. Frenchman creek feasibility study - appropriation. (1) The Colorado water conservation board is hereby authorized to participate in a flood mitigation feasibility study along Frenchman creek in the city of Holyoke and adjacent areas of Phillips county, Colorado. The purpose of the study is to define

specific mitigation measures to lessen flood severity and reduce future flood damages along certain developed reaches of Frenchman creek. The scope of work for the project will be developed by the board in consultation with the city of Holyoke and Phillips county utilizing recently developed topographic mapping of the creek.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the city of Holyoke, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, for costs associated with the completion of the Frenchman creek flood mitigation feasibility study.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 18. Restoration of emergency infrastructure repair loan account balance. A total of one million six hundred thousand dollars (\$1,600,000), or so much thereof as may be necessary, shall be transferred by the state treasurer on or before June 30, 2001, from the unreserved cash in the Colorado water conservation board construction fund to the emergency infrastructure repair loan account in order to bring the balance in the emergency infrastructure repair account back to two million dollars (\$2,000,000).

SECTION 19. Appropriations to the Colorado river recovery program loan account. (1) In addition to any other appropriation, beginning July 1, 2001, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado river recovery program loan fund created in section 37-60-122.9, Colorado Revised Statutes, the sum of five million dollars (\$5,000,000), or so much thereof as may be necessary, for the continued implementation of section 37-60-122.9, Colorado Revised Statutes.

(2) The amount appropriated in this section is in addition to any amounts transferred previously to the Colorado river recovery program loan fund. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

(3) The state treasurer is hereby authorized and directed to transfer five million dollars (\$5,000,000) from the Colorado water conservation board construction fund to the Colorado river recovery program loan fund.

SECTION 20. Water project loan authorizations from the Colorado river recovery program loan fund. (1) Pursuant to section 37-60-122.9 and 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the Colorado river recovery program loan fund to enable the construction of the following water resources projects:

Priority	Borrower-Project	Loan Amount
(a)	Western Area Power Administration - Capital projects of the Upper Colorado and San Juan River Basins Recovery Implementation Program	\$5,500,000

Total	\$5,500,000
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(2) The Colorado water conservation board may make loans for the construction of the projects specified in subsection (1) of this section from such moneys as are or may hereafter be transferred to the Colorado river recovery program loan fund from the Colorado water conservation board construction fund. Said loans shall be in the amounts listed in subsection (1) of this section plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices applicable to the types of construction required for each project or as may be justified by reason of changes in the plans for a project due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by regulatory agencies, or changes in material quantities beyond contract limits.

(3) Pursuant to section 37-60-120 (1), Colorado Revised Statutes, the board shall require such terms and conditions in such contracts as will ensure repayment of funds made available by it. The board shall not disburse any moneys for any loan authorized by subsection (1) of this section unless and until it is satisfied, at its sole discretion, that the recipient of any such loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1) of this section.

SECTION 21. Arkansas river well measurement program continuation - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, to continue the Arkansas river well measurement program.

(2) The amounts appropriated in this section are in addition to amounts appropriated previously for the Arkansas river well measurement program. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

SECTION 22. Dry Creek flood mitigation project feasibility study - appropriation. (1) The Colorado water conservation board is hereby authorized to participate in a flood mitigation feasibility study along Dry Creek in the city of Fort Collins and adjacent areas of Larimer county, Colorado. The purposes of the study are to define specific mitigation measures to lessen flood severity and reduce future flood damages along certain developed reaches of Dry Creek. The scope of work for the project shall be developed by the board in consultation with the city of Fort Collins and Larimer county.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to Larimer county, the sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, for costs associated with the completion of the Dry Creek Flood Mitigation Feasibility Study.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

SECTION 23. Section 8 (2) of chapter 360, Session Laws of Colorado 2000, is amended to read:

Section 8. Alamosa river watershed restoration project - appropriation. (2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the Alamosa-La Jara water conservancy district OR THE ALAMOSA RIVER WATERSHED RESTORATION FOUNDATION, the sum of three hundred thousand dollars (\$300,000), or so much thereof as may be necessary, for engineering and construction costs associated with implementation of the Alamosa river watershed RESTORATION project.

SECTION 24. Article 60 of title 37, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

37-60-123.1. Loan foreclosure fund - created. THERE IS HEREBY CREATED IN THE STATE TREASURY THE LOAN FORECLOSURE FUND, REFERRED TO IN THIS SECTION AS THE "FORECLOSURE FUND". THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER ONE HUNDRED THOUSAND DOLLARS FROM THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE FORECLOSURE FUND. THE COLORADO WATER CONSERVATION BOARD IS AUTHORIZED TO PROVIDE FUNDING TO COVER THE DIRECT COSTS ASSOCIATED WITH COMPLETING FORECLOSURE PROCEEDINGS AGAINST A DELINQUENT BORROWER FROM EITHER THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND OR THE SEVERANCE TAX TRUST FUND PERPETUAL BASE ACCOUNT. THE MONEYS IN THE FORECLOSURE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD FOR LOAN FORECLOSURE PROCEEDINGS, INCLUDING, BUT NOT LIMITED TO, PROPERTY MANAGEMENT COSTS, APPRAISALS, ASSESSMENTS, TAXES, LOCAL GOVERNMENT FEES, INSURANCE COSTS, COURT COSTS, AND LEGAL FEES. ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN THE FORECLOSURE FUND SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ANY BALANCE REMAINING IN THE FORECLOSURE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND.

37-60-123.2. Flood response fund - created. THERE IS HEREBY CREATED IN THE STATE TREASURY THE FLOOD RESPONSE FUND, REFERRED TO IN THIS SECTION AS THE "RESPONSE FUND". THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER ONE HUNDRED FIFTY THOUSAND DOLLARS FROM THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE RESPONSE FUND. THE COLORADO WATER CONSERVATION BOARD IS AUTHORIZED TO PROVIDE FUNDING FOR FLOOD PREPAREDNESS AND FOR RESPONSE AND RECOVERY ACTIVITIES FOLLOWING FLOOD EVENTS AND DISASTERS. THE MONEYS IN THE RESPONSE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD FOR FLOOD RESPONSE PURPOSES, INCLUDING, BUT NOT LIMITED TO, THE IMMEDIATE AVAILABILITY OF FUNDS FOR AERIAL PHOTOGRAPHY OF FLOODED AREAS, FLOOD DOCUMENTATION AND IDENTIFICATION OF SPECIFIC HAZARDS, EVALUATIONS AND REVISIONS OF FLOODPLAIN DESIGNATIONS, FLOOD FORECASTING AND PREPARATION, AND DEVELOPMENT OF DISASTER AND RECOVERY MITIGATION PLANS. ALL INTEREST DERIVED FROM THE

INVESTMENT OF MONEYS IN THE RESPONSE FUND SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ANY BALANCE REMAINING IN THE RESPONSE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND.

SECTION 25. Repeal. 37-60-121.3, Colorado Revised Statutes, is repealed as follows:

37-60-121.3. Severance tax trust fund statewide water planning account - creation. ~~(1) There is hereby created in the state treasury, as part of the Colorado water conservation board construction fund, the severance tax trust fund statewide water planning account. The state treasurer is hereby authorized and directed to transfer moneys appropriated for programs or projects within the Colorado water conservation board pursuant to section 39-29-109 (1) (c) (I) (D), C.R.S., to the severance tax trust fund statewide water planning account.~~

~~(2) The board is authorized to use the moneys in the severance tax trust fund statewide water planning account for projects in compliance with this article. All interest derived from the investment of moneys in the severance tax trust fund statewide water planning account shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the severance tax trust fund statewide water planning account at the end of any fiscal year shall remain in the account and shall not revert to the general fund or any other fund.~~

SECTION 26. 39-29-109 (1) (c) (I) (D), Colorado Revised Statutes, is amended to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys - repeal. (1) (c) (I) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the operational account of the severance tax trust fund. The state minerals, energy, and geology policy advisory board established pursuant to section 34-20-104, C.R.S., shall review the executive director's recommendation before submittal. The general assembly may appropriate moneys from the total moneys available in the operational account of the severance tax trust fund to fund recommended programs as follows:

(D) For programs within the Colorado water conservation board, up to five percent of the moneys in the operational account. ~~which moneys shall be appropriated to the severance tax trust fund statewide water planning account, created in section 37-60-121.3, C.R.S.~~

SECTION 27. 37-60-121 (1) (b) (VII), the introductory portions to 37-60-121 (2.5) (a) and (2.5) (b), 37-60-121 (2.5) (c), (2.5) (d), (2.5) (e), (2.5) (f), the introductory portion to 37-60-121 (6), and 37-60-121 (6) (b), (6) (c), (6) (d) (II) (A), and (6) (d) (VII), Colorado Revised Statutes, are amended to read:

37-60-121. Colorado water conservation board construction fund - creation of - nature of fund - funds for investigations - contributions - use for augmenting the general fund - funds created. (1) (b) In the consideration of

making expenditures from the fund, the board shall be guided by the following criteria:

(VII) The board may recommend to loan funds on floodplain projects; ~~not to exceed five percent of the annual projected revenue earned by the fund;~~

(2.5) (a) The board is authorized to expend, pursuant to continuous appropriation and subject to the requirements of paragraph (b) of this subsection (2.5), a total sum not to exceed four million dollars from the litigation ~~account~~ FUND, which is hereby created, ~~in the Colorado water conservation board construction fund;~~ for the purpose of litigation:

(b) Pursuant to the spending authority set forth in paragraph (a) of this subsection (2.5), moneys may be expended from the litigation ~~account~~ in the ~~Colorado water conservation board construction~~ fund at the discretion of the board if:

(c) Any interest earned on the moneys in the litigation ~~account~~ FUND shall be credited on an annual basis ~~in equal portions~~ to the Colorado water conservation board construction fund created in subsection (1) of this section. ~~and the domestic water supply project revolving fund created in section 37-95-107.7.~~

(d) The board, in conjunction with the attorney general, shall report annually to the general assembly on any litigation which involves the use of any moneys from the litigation ~~account~~ FUND created in paragraph (a) of this subsection (2.5).

(e) Any moneys remaining in the litigation ~~account~~ FUND at such time as the general assembly acts to close the ~~account~~ FUND shall be ~~equally divided and~~ credited to the Colorado water conservation board construction fund created in subsection (1) of this section. ~~and the domestic water supply project revolving fund created in section 37-95-107.7.~~

(f) ~~Notwithstanding any provision of paragraph (a) of this subsection (2.5) to the contrary, on July 1, 1999, the state treasurer shall deduct one million dollars from the litigation account and transfer such sum to the capital account of the species conservation trust fund created in section 24-33-111 (2), C.R.S.~~

(6) As of July 1, 1988, and July 1 of each year thereafter through July 1, 1996, fifty percent of the sum specified in this subsection (6) shall accrue to the fish and wildlife resources ~~account~~ FUND, which ~~account~~ FUND is hereby created, ~~in the Colorado water conservation board construction fund;~~ twenty-five percent of such sum shall accrue to the Colorado water conservation board construction fund, and twenty-five percent of such sum shall accrue to the Colorado water resources and power development authority. The state treasurer and the controller shall transfer such sum out of the general fund and into said fish and wildlife resources ~~account;~~ ~~construction~~ fund, and authority as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (6) and subsection (7) of this section shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1, C.R.S. Subject to the provisions of subsection (7) of this section, the amount ~~which~~ THAT shall accrue pursuant to this subsection (6) shall be as follows:

~~(b) On July 1, 1989, four hundred thousand dollars which, notwithstanding the introductory portion of this subsection (6), shall accrue exclusively to the fish and wildlife resources account in the Colorado water conservation board construction fund;~~

~~(c) On July 1, 1990, one million dollars, which, notwithstanding the introductory portion of this subsection (6), shall accrue exclusively to the fish and wildlife resources account in the Colorado water conservation board construction fund to be expended exclusively for Muddy Creek project fish and wildlife mitigation purposes;~~

(d) On July 1, 1994, thirty million dollars. In distributing said sum, the formula in the introductory portion to this subsection (6) shall not apply, and said sum shall accrue as follows:

~~(II) (A) Four million five hundred fifty-two thousand nine hundred sixty dollars to the fish and wildlife resources account in the Colorado water conservation board construction fund.~~

~~(VII) Four million dollars to the litigation account created in subsection (2.5) of this section in the Colorado water conservation board construction fund.~~

SECTION 28. 37-60-122.2 (2) (a), (2) (c), (2) (e), and (2) (f), Colorado Revised Statutes, are amended to read:

37-60-122.2. Fish and wildlife resources - legislative declaration - fish and wildlife resources fund. (2) (a) Moneys transferred to the fish and wildlife resources ~~account in the Colorado water conservation board construction fund~~ pursuant to the provisions of section 37-60-121 (6) are hereby continuously appropriated to the Colorado water conservation board for the purpose of making grants pursuant to this subsection (2) and for offsetting the direct and indirect costs of the board for administering the grants. The interest earned from the investment of the moneys in the account shall be credited to the account.

(c) An applicant may apply for an enhancement grant by submitting to the commission and the board an enhancement proposal for enhancing fish and wildlife resources over and above the levels existing without such facilities. The commission shall submit its recommendations on the proposal to the board for its consideration. The board, with the concurrence of the commission, may award a grant for fish and wildlife enhancement. Any such enhancement grant will be shared equally by the Colorado water conservation board's fish and wildlife resources ~~account~~ FUND and the division of wildlife's wildlife cash funds and other funds available to the division.

(e) Species recovery grants from the fish and wildlife resources ~~account~~ FUND may be made for the purpose of responding to needs of declining native species and to those species protected under the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531, et seq., as amended, in a manner that will carry out the state water policy.

~~(f) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, on July 1, 1998, the state treasurer shall deduct one million dollars from the fish and wildlife resources account in the Colorado water conservation board~~

~~construction fund and transfer such sum to the operation and maintenance account of the species conservation trust fund created in section 24-33-111 (2), C.R.S.~~

SECTION 29. 37-60-122.5, Colorado Revised Statutes, is amended to read:

37-60-122.5. Emergency dam repair cash fund. There is hereby created in the state treasury ~~as part of the Colorado water conservation board construction fund~~ the emergency dam repair cash ~~account~~ FUND. The state treasurer is hereby authorized and directed to transfer moneys from the Colorado water conservation board construction fund to the emergency dam repair cash ~~account~~ FUND in such amounts and at such times as determined by the Colorado water conservation board. Such transfers shall not exceed fifty thousand dollars. The moneys in the emergency dam repair cash ~~account~~ FUND are hereby continuously appropriated to the Colorado water conservation board for the emergency repair of dams pursuant to section 37-87-108.5. All moneys collected by the state engineer pursuant to section 37-87-108.5 shall be transmitted to the state treasurer who shall credit such moneys to the Colorado water conservation board construction fund. All interest derived from the investment of moneys in the emergency dam repair cash ~~account~~ FUND shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the emergency dam repair cash ~~account~~ FUND at the end of any fiscal year shall remain in the ~~account~~ FUND.

SECTION 30. 37-60-122.6 (1), Colorado Revised Statutes, is amended to read:

37-60-122.6. Emergency infrastructure fund. (1) There is hereby created in the state treasury ~~as part of the Colorado water conservation board construction fund~~ the emergency infrastructure repair cash ~~account~~ FUND, referred to in this section as the "emergency ~~account~~ FUND". The state treasurer is hereby authorized and directed to transfer two million dollars from the water conservation board construction fund to the emergency ~~account~~ FUND. The Colorado water conservation board is authorized to make loans from the emergency ~~account~~ FUND for projects ~~which~~ THAT it determines are necessary to avoid unreasonable risk of injury or damage to human health or well-being or to property or crops when the board also determines that the emergency condition is not the result of negligence in the operation or maintenance of the infrastructure. Such emergency projects may provide a partial, temporary, or permanent and complete solution to the emergency condition. However, the viability or success of such emergency projects may not be dependent upon further appropriations or loans. Any partial or temporary solution to an emergency condition must be one ~~which~~ THAT is sensible and functional on its own merits without regard to the prospect of further state funding. The board shall submit to the general assembly a written determination of the basis for each loan from the emergency ~~account~~ FUND not later than December 1 of the year in which such loan was made. The moneys in the emergency ~~account~~ FUND are hereby continuously appropriated to the board for emergency infrastructure purposes consistent with the definition of "emergency" in section 20 (2) (c) of article X of the state constitution, including, but not limited to, the immediate availability of funds for emergency repairs to raw water storage systems, raw water transmission systems, or both such storage and transmission systems. All interest derived from the investment of moneys in the emergency ~~account~~ FUND shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the emergency ~~account~~ FUND at the end of any fiscal year shall remain in the ~~account~~ FUND.

SECTION 31. 37-60-122.7, Colorado Revised Statutes, is amended to read:

37-60-122.7. Small project loan fund - feasibility study small grant fund - creation. (1) There is hereby created in the state treasury ~~as part of the Colorado water conservation board construction fund~~ the small project loan ~~account~~ FUND. The state treasurer is hereby authorized and directed to transfer two million dollars from the COLORADO water conservation board construction fund to the small project loan ~~account~~ FUND.

(2) (a) The Colorado water conservation board is authorized to make loans from the small project loan ~~account~~ FUND in a maximum amount of one hundred thousand dollars for small projects if it determines that delay would result in undue hardship on the borrower. These loans shall not require prior general assembly approval, and shall be approved by the board for the purpose of avoiding undue delay in completion of the project.

(b) The total amount of loans from the small project loan ~~account~~ FUND shall not exceed one million dollars in any fiscal year.

(3) The board shall submit to the general assembly a written determination of the basis for each loan from the small project loan ~~account~~ FUND not later than December 1 of the year in which the loan was made.

(4) The moneys in the small project loan ~~account~~ FUND are hereby continuously appropriated to the board for loans in compliance with subsections (1) to (3) of this section. All interest derived from the investment of moneys in the small project loan ~~account~~ FUND shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the small project loan ~~account~~ FUND at the end of any fiscal year shall remain in the ~~account~~ FUND and shall not revert to the Colorado water conservation board construction fund.

(5) (a) There is hereby created in the state treasury ~~as part of the Colorado water conservation board construction fund~~ the feasibility study small grant ~~account~~ FUND for the purpose of making small grants to help pay the costs of preparing water project feasibility studies. The Colorado water conservation board shall approve small feasibility study grants based solely on criteria adopted by the board.

(b) The state treasurer is hereby authorized and directed to transfer two hundred thousand dollars from the Colorado water conservation board construction fund to the feasibility study small grant ~~account~~ FUND. The moneys in the feasibility study small grant ~~account~~ FUND are hereby continuously appropriated to the board for grants in compliance with this subsection (5). All interest derived from the investment of moneys in the feasibility study small grant ~~account~~ FUND shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the feasibility study small grant ~~account~~ FUND at the end of any fiscal year shall remain in the ~~account~~ FUND and shall not revert to the Colorado water conservation board construction fund.

SECTION 32. 37-60-122.8, Colorado Revised Statutes, is amended to read:

37-60-122.8. Publications fund. (1) There is hereby created in the state treasury

~~as part of the Colorado water conservation board construction fund~~ the publications ~~account~~ FUND. The ~~account~~ FUND shall consist of moneys paid to the board from persons outside the board for copies of public records or publications provided by the board. The moneys in the ~~account~~ FUND may be expended by the board to pay for the cost of providing copies of public records or publications to persons outside the board. THE MONEYS IN THE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD FOR THE PURPOSES ESTABLISHED IN THIS SECTION.

(2) The publications ~~account~~ FUND shall have no more than ten thousand dollars in it and any amount in excess shall be credited to the Colorado water conservation board construction fund. All interest derived from the investment of moneys in the publications ~~account~~ FUND shall be credited to the publications ~~account~~ FUND.

(3) The state treasurer is hereby authorized and directed to transfer five thousand dollars from the COLORADO water conservation board construction fund to the publications ~~account~~ FUND.

SECTION 33. 37-60-122.9, Colorado Revised Statutes, is amended to read:

37-60-122.9. Colorado river recovery program loan fund - creation.

(1) There is hereby created in the state treasury ~~as part of the Colorado water conservation board construction fund~~ the Colorado river recovery program loan ~~account~~ FUND for the purpose of making loans to the Colorado river and San Juan river recovery programs for the construction or improvement of certain water related projects in Colorado, under agreements with power users of the federal Colorado river storage project, required to recover the four endangered fish species of the upper Colorado river, including the San Juan river.

(2) The Colorado water conservation board shall recommend loans from the Colorado river recovery program loan ~~account~~ FUND to the general assembly pursuant to section 37-60-122 (1) (b). The loans shall be subject to an interest rate and repayment provisions to be determined by the Colorado water conservation board.

(3) The state treasurer is hereby authorized and directed to transfer to the Colorado river recovery program loan ~~account~~ FUND, created in subsection (1) of this section, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, the sum of two million dollars. Interest earned on the funds in the Colorado river recovery program loan ~~account~~ FUND shall be credited to the Colorado water conservation board construction fund, created in section 37-60-121 (1).

SECTION 34. 37-60-130 (1), (2), (4) (a), and (4) (b), Colorado Revised Statutes, are amended to read:

37-60-130. Arkansas river augmentation loan fund - creation. (1) There is hereby created in the state treasury ~~as part of the Colorado water conservation board construction fund~~ the Arkansas river augmentation loan ~~account~~ FUND. The state treasurer is hereby authorized and directed to transfer a total of three million five hundred thousand dollars from the unreserved cash funds in the water conservation board construction fund to the Arkansas river augmentation loan ~~account~~ FUND.

(2) The board is hereby authorized to expend up to three million five hundred thousand dollars from the Arkansas river augmentation loan ~~account~~ FUND for the purpose of making loans to organizations or entities for the purchase of augmentation water or the rights to such water to replace out-of-priority depletions to surface water rights and to prevent material depletions of usable stateline flows in violation of the Arkansas river compact. MONEYS IN THE ARKANSAS RIVER AUGMENTATION LOAN FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD. ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN THE ARKANSAS RIVER AUGMENTATION LOAN FUND SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

(4) (a) The state engineer shall promptly and completely curtail the use of a well by the owner of such well, if such owner has accepted the benefit of the Arkansas river augmentation loan ~~account~~ FUND, and fails to make a payment required pursuant to the terms of subsection (3) of this section.

(b) This section shall apply regardless of whether the well owner accepts the benefit of the Arkansas river augmentation loan ~~account~~ FUND directly or through membership in a participating association or organization.

SECTION 35. 37-87-108.5 (4), Colorado Revised Statutes, is amended to read:

37-87-108.5. Emergency actions. (4) (a) All moneys collected by the state engineer pursuant to subsection (3) of this section shall be credited to the emergency dam repair cash ~~account~~ FUND created in section 37-60-122.5, to the extent necessary to replenish the account. Moneys collected in excess of such amount shall be credited to the Colorado water conservation board construction fund.

(b) The general assembly shall make annual appropriations from the emergency dam repair cash ~~account~~ FUND created in section 37-60-122.5, for the direct and indirect costs incurred by the state engineer in the performance of those duties authorized to be carried out by the state engineer in this section.

SECTION 36. 37-60-129, Colorado Revised Statutes, is amended to read:

37-60-129. Availability of funds. Moneys appropriated or authorized to the board from the Colorado water conservation board construction fund AND FROM THE COLORADO RIVER RECOVERY PROGRAM LOAN FUND shall remain available to the board for the original purposes, unless deauthorized by the legislature, until any project for which the moneys were appropriated or authorized is completed.

SECTION 37. 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: May 30, 2001