

CHAPTER 62

WATER AND IRRIGATION

SENATE BILL 05-133

BY SENATOR(S) Entz, Hillman, Isgar, Kester, Taylor, and Teck;
 also REPRESENTATIVE(S) Gallegos, Berens, Brophy, Buescher, Butcher, Carroll M., Curry, Garcia, Hodge, Hoppe, Kerr,
 Madden, Marshall, Massey, McFadyen, Merrifield, Paccione, Penry, Riesberg, Solano, Weissmann, and White.

AN ACT

**CONCERNING CONDITIONS UNDER WHICH THE OWNER OF A WATER RIGHT CAN OVERCOME A
 PRESUMPTION OF ABANDONMENT OF THE WATER RIGHT.**

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

SECTION 1. 37-92-103 (2), Colorado Revised Statutes, is amended to read:

37-92-103. Definitions. As used in this article, unless the context otherwise requires:

(2) "Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner thereof to discontinue permanently the use of all or part of the water available thereunder. Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining an abandonment of a water right for the duration that:

(a) The land on which the water right has been historically applied is enrolled under ~~Title XII of the federal "Food Security Act of 1985", P. L. 99-198.~~ A FEDERAL LAND CONSERVATION PROGRAM; OR

(b) THE NONUSE OF A WATER RIGHT IS A RESULT OF PARTICIPATION IN:

(I) A WATER CONSERVATION PROGRAM APPROVED BY A STATE AGENCY, A WATER CONSERVATION DISTRICT, OR A WATER CONSERVANCY DISTRICT;

(II) A WATER CONSERVATION PROGRAM ESTABLISHED THROUGH FORMAL WRITTEN ACTION OR ORDINANCE BY A MUNICIPALITY OR ITS MUNICIPAL WATER SUPPLIER;

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

(III) AN APPROVED LAND FALLOWING PROGRAM AS PROVIDED BY LAW IN ORDER TO CONSERVE WATER; OR

(IV) A WATER BANKING PROGRAM AS PROVIDED BY LAW.

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 14, 2005