

CHAPTER 63

WATER AND IRRIGATION

SENATE BILL 10-052

BY SENATOR(S) Brophy, Hodge, Romer, Shaffer B., Tochtrop, Whitehead;
also REPRESENTATIVE(S) Curry, Fischer, Gardner C., King S.

AN ACT

**CONCERNING THE ABILITY OF THE GROUNDWATER COMMISSION TO ALTER THE BOUNDARIES OF
A DESIGNATED GROUNDWATER BASIN.**

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

SECTION 1. 37-90-106 (1) (a), Colorado Revised Statutes, is amended, and the said 37-90-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

37-90-106. Determination of designated groundwater basins - exception - legislative declaration - repeal. (1) (a) The commission shall, from time to time as adequate factual data ~~becomes~~ BECOME available, determine designated ~~ground water~~ GROUNDWATER basins and subdivisions thereof by geographic description. ~~and, as future conditions require and~~ If factual data OBTAINED AFTER THE DESIGNATION OF A GROUNDWATER BASIN justify, ~~shall~~ THE COMMISSION MAY alter the boundaries or description ~~thereof~~ OF THAT DESIGNATED GROUNDWATER BASIN BY ADDING LANDS TO THE BASIN. AFTER A DETERMINATION OF A DESIGNATED GROUNDWATER BASIN BECOMES FINAL, THE COMMISSION MAY ALTER THE BOUNDARIES TO EXCLUDE LANDS FROM THAT BASIN ONLY IF FACTUAL DATA JUSTIFY THE ALTERATION AND THE ALTERATION WOULD NOT EXCLUDE FROM THE DESIGNATED GROUNDWATER BASIN ANY WELL FOR WHICH A CONDITIONAL OR FINAL PERMIT TO USE DESIGNATED GROUNDWATER HAS BEEN ISSUED. THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT ALLOWING ALTERATIONS TO EXCLUDE LANDS FROM A DESIGNATED GROUNDWATER BASIN ONLY UNDER SUCH CIRCUMSTANCES AS SET FORTH IN THIS PARAGRAPH (a) REAFFIRMS, RATHER THAN ALTERS, THE GENERAL ASSEMBLY'S ORIGINAL INTENT THAT THERE BE A CUT-OFF DATE BEYOND WHICH THE LEGAL STATUS OF GROUNDWATER INCLUDED IN A DESIGNATED GROUNDWATER BASIN CANNOT BE CHALLENGED, AND THAT SUCH CUT-OFF DATE WAS INTENDED TO BE THE DATE OF FINALITY FOR THE ORIGINAL

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

DESIGNATION OF THE BASIN. AFTER THIS CUT-OFF DATE HAS PASSED, ANY REQUEST TO EXCLUDE WELLS THAT ARE PERMITTED TO USE DESIGNATED GROUNDWATER FROM AN EXISTING GROUNDWATER BASIN SHALL CONSTITUTE AN IMPERMISSIBLE COLLATERAL ATTACK ON THE ORIGINAL DECISION TO DESIGNATE THE BASIN.

(a.5) NOTHING IN SENATE BILL 10-052, ENACTED IN 2010, SHALL AFFECT LITIGATION BROUGHT UNDER THIS SECTION THAT IS PENDING ON JANUARY 1, 2010.

SECTION 2. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 31, 2010