



Colorado River District

75 Years

Protecting Western Colorado Water



MEMORANDUM

JANUARY 5, 2012

TO: BOARD OF DIRECTORS

FROM: CHRIS TREESE

SUBJECT: 2012 COLORADO GENERAL ASSEMBLY:
OUTLOOK & WATER-RELATED RADAR SCREEN

This memo outlines the currently foreseeable water-related legislation for the 2012 session of the Colorado General Assembly. The legislature convenes on January 11. **I am not requesting any specific action on bills with this memo. However, at the Board meeting, I will request direction on bills introduced by January 16.** Bills will be emailed to the board when introduced, copies will be provided at the meeting.

I request the Board again consider scheduling special telephonic meetings every two weeks during the legislative session to ensure current information and timely input into the River District's lobbying activities. If directors chose to follow past years' practice, these meetings would be Thursdays at noon starting February 2, 2012.

Playing Field:

- Colorado will open the 2012 session of the General Assembly on January 11 with a Democrat majority in the Senate and a one-vote Republican majority in the House.
- In a ruling that has profound consequences for Colorado's budget, a Denver judge ruled that the state's school-funding system fails the constitutional requirement of "thorough and uniform." The state has appealed the decision. A Supreme Court ruling is not expected (but is possible) during the legislative session. Nevertheless, this decision will loom large over all budget discussions, and one or more legislative proposals are expected.
- Reapportionment: In the decennial redrawing of state legislative district boundaries, incumbents, especially Republicans, appear to be the losers this decade. Ten years ago, in only one district were boundaries redrawn to include two incumbents. This time 14 of the redrawn boundaries enfold two or more incumbents; several of these districts include a term-limited incumbent. On the West Slope, Randy Baumgardner (R-Hot Sulphur Springs) was drawn out of his district and now shares House District 13 with Claire Levy (D-

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Boulder). Ray Scott (R-Grand Junction) and Laura Bradford (R-Collbran) share House District 54. House District 61 Representative Roger Wilson (D-Carbondale) was drawn out of his district and placed in HD 57, with a decidedly Republican tilt. Representative Wilson has announced he will not run. It will be interesting how the hard feelings play out during upcoming session.

- The budget and uncertain revenues will again dominate the session (after pure partisan politics). Governor Hickenlooper, however, announced in December that year-end revenue collections experienced a substantial increase, which he proposed be dedicated primarily to backfilling past years' cuts to K-12 education. The Republican chair of the Joint Budget Committee did not endorse the Governor's proposed allocation. Revenue increases are not expected to offset fully past years' cuts.

Water-related Bills:

The board discussed both those bills endorsed and rejected by the interim Water Resources Review Committee. A brief summary of those bills appears below.

Additionally, I expect the following bills to be introduced early in the session, at least one in time for action at the January meeting.

- Senator King (R-Grand Junction) worked with the River District on a bill to prohibit the Water Quality Control Commission from adopting numeric water quality standards related to nitrogen or phosphorus.
- Representative Loper (R-Calhan) will have a bill addressing oil and gas drilling in or through designated groundwater basins.

Interim, Water Resources Review Committee:

- Bill 1: "Exempt Drinking Water Certification Designation" This bill would exempt from current certification requirements drinking water treatment facilities that "store, treat, or process" solid waste. October 2011 Board action: NO POSITION
- Bill 2: "Establish Mines' Water Replacement Requirement" This bill would allow mining operations to take "credit" when calculating augmentation requirements for both historical evapo-transpiration from plant materials removed on disturbed ground and historical evaporative losses. Currently only sand and gravel operations can take such credits. October 2011 Board action: SUPPORT IN CONCEPT
- Bill 3: "Authorize Gray-water Reuse" This bill would allow the Water Quality Control Commission to promulgate regulations for the reuse of in-house water uses from sources other than toilets, kitchen sinks and dishwashers. Gray-water reuse is legislatively deemed not to cause injury in the bill if it is reused consistent with the original water right or well permit. The Interim Committee did not approve this bill. I am confident, however, that this bill will be introduced. October 2011 Board action: SUPPORT

- Bill 4: “Postpone Repeal Denver Basin Aquifers” Bill 4 would amend the current judicial post-pumping depletion requirements for many South Platte wells to require post-pumping replacement only to compensate for injurious depletions. October 2011 Board action: MONITOR
- Bill 5: “Phase-in Efficient Toilet Requirement” This bill would phase in a mandate that retailers sell only ultra low water-use toilets and urinals. The mandate begins with a 50% requirement in 2014 increasing to a 100% requirement in 2016. This bill reflects a recommendation from the IBCC regarding water conservation. The Interim Committee did not approve this bill. I am confident, however, that this bill will be introduced. October 2011 Board action: SUPPORT
- Bill 6: “Divert Waste Meds from Water Disposal” This bill would create a state-funded, locally run collection program to prevent medications from entering landfills and state waters (disposal by flushing unwanted meds, currently allowed in law). The Interim Committee did not approve this bill, and I suspect this bill will not be introduced in the upcoming session. October 2011 Board action: MONITOR
- Bill 7: “Consolidate Division Water Resources Funds” This bill would consolidate several cash funds administered by DWR. This bill was requested by DWR and DNR. October 2011 Board action: SUPPORT
- Bill 8: “Reissue Lost Mutual Ditch Share Certificates” This bill would eliminate a current requirement that mutual ditch companies wait 3 years before replacing a lost certificate at the owner’s request. October 2011 Board action: SUPPORT

Other:

Richard Hamilton and Phil Doe are again proposing two separate amendments to the state constitution through the initiation process, both would establish the Public Trust Doctrine as Colorado’s principal mechanism for water allocation. The River District will closely monitor the progress of either or both of these proposals. The proponents have temporarily withdrawn one of their proposals. The other has been through the title setting process and survived a Water Congress challenge to the single subject requirement for initiatives. I will have a further update at the board meeting.