

Water bills get Colorado Legislature attention

Written by K.C. Mason

Majority Democrats are carrying most of the water (bills) in the Colorado Legislature this year.

That could be good news for the South Platte River well users who have been trying for years to find affordable water for their augmentation plans without damaging the senior water rights of ditch companies and other surface users.

The House on Monday passed and sent to the Senate a bill sponsored by Rep. Jim Riesberg, D-Greeley, which eliminates the requirement that depletions from well pumping prior to 1974 must be accounted for in augmentation plans that still are pending in Division 1 water court.

House Bill 1174 affects about 400 wells users that the Central Water Conservancy District accepted into its plan after the demise of the Ground Water Appropriators of the South Platte (GASP).

While the bill garnered no debate on the House floor, it generated a claim during a committee hearing last week that well irrigators are “stealing water from people on the lower South Platte.

“These depletions hurt our water rights,” water attorney Tim Buchanan, representing the Harmony Ditch Company told the House Agriculture, Livestock and Natural Resources Committee. “No one knows what they are or how much they are. No complete analysis has ever been done.”

However, Alexandra Davis, assistant director for water in the Department of Natural Resources, said there was no accounting for depletions prior to 1974 in all the stipulated decrees for about 3,200 other GASP and Central wells,

“Our perspective from the State Engineer’s office is that this (bill) levels the playing field given that 80 percent have made it through the process,” Davis said. “Failure to adopt this bill would require the other 10-15 percent to have to go through the exhaustive research to know what the

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depletions were prior to 1974.”

The Senate sponsor of HB 1174 is Sen. Mary Hodge, D-Brighton, who also has introduced what could be the most controversial water bill of the 2009 legislative session.

Senate Bill 147 would allow the State Engineer to approve substitute water supply plans in permanent augmentation plans for the repayment of out-of-priority depletions from the stream prior to 2003. The bill would apply only to wells in Division I and would expire in 10 years.

“Right now you can’t use substitute supply plans for augmentation,” said Hodge, who is preparing for a hearing on her bill Thursday before the Senate Agriculture and Natural Resources Committee. “This would just give them a quicker way to get water when it’s available.”

A similar bill was introduced last spring when water providers said they had some surplus water to sell because of the heavy snowpack. It was immediately opposed by surface water users and Western Slope interests.

“There’s language (in SB 147) to say we’re not taking more water from the Western Slope,” Hodge said. “We needed to assure the Western Slope that this wasn’t a water grab.”

Another water bill that is generating a lot of interest this year is House Bill 1129, sponsored by Rep. Marsha Looper, R-Calhan, and backed by the Division of Water Resources. It sets up a pilot project for up to 10 developments to collect rainwater from rooftops and impermeable surfaces to see what the impact would be on downstream water users.

“We will pick the projects that truly give us the data we need,” Kevin Rein, a Division 1 water engineer. He said the State Engineer’s office is hoping to collect a minimum of two years of data on small, medium and large projects.

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The House Agriculture, Livestock and Natural Resources Committee unanimously approved the bill for full House debate, but only after Looper offered an amendment to require participants to augment 100 percent of the rainwater collected.

“The bill now clearly states there must be a substitute water supply plan in conjunction with 100 percent augmentation,” Looper said.

Isgar won Senate passage of a similar bill (SB 80) that allows rainwater catchment from rooftops of rural residences that are not connected to domestic water systems. The water could not be used for irrigation, but could be used for watering livestock and gardens.

“This is about allowing people with exempt wells to collect water for whatever use the well permit allows,” Isgar said prior to Senate passage of his bill. “There is a need out there for people to be able to do this. It may actually reduce injury (to senior users) because it will reduce the drawdown on the aquifer.”

Rep. Cory Gardner, R-Yuma, said there is no legislation expected this year dealing with Colorado’s obligations to Kansas and Nebraska in the contested Republican River compact.

The legislature last year approved a \$60 million loan to eastern Colorado farmers to build a compact compliance pipeline to deliver water to the Kansas border. However, the pipeline is on hold while negotiations continue with Kansas.

“The loan is not in any kind of danger but it’s in an unfortunate holding pattern while Kansas tries to show how big a stick it has,” Gardner said. “We continue to search for funding to help that district but trying to find funding in the current budget situation is difficult.”